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WHEN: Tuesday, November 9, 2010
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Contents

Federal Register

Vol. 75, No. 197

Wednesday, October 13, 2010

Administrative Conference of the United States
NOTICES
Meetings:
Committee on Regulation, 62755

Agricultural Marketing Service
PROPOSED RULES
National Organic Program:
Draft Guidance for Accredited Certifying Agents and Certified Operations, 62693–62694

Agriculture Department
See Agricultural Marketing Service
See Foreign Agricultural Service
See Forest Service
See Natural Resources Conservation Service
PROPOSED RULES
Dairy Import Licensing Program, 62692–62693

Antitrust Division
NOTICES
Proposed Final Judgments and Competitive Impact Statements:
United States, et al. v. American Express Co., et al., 62858–62874

Army Department
See Engineers Corps

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62832–62836
Meetings:
Advisory Committee to Director, 62844

Centers for Medicare & Medicaid Services
RULES
Health Insurance Reform:
Maintenance Changes to Electronic Data Transaction Standards Adopted under 1996 Health Insurance Portability and Accountability Act, 62684–62686

Children and Families Administration
NOTICES
Awards of Single-Source Expansion Supplements:
Chapel Hill Training Outreach Project, Inc., 62841
Child Welfare League of America, 62839–62840
Research Foundation of CUNY on Behalf of Hunter College School of Social Work, 62838–62839
Tribal Law and Policy Institute, 62839
University of Oklahoma, National Resource Center for Youth Services, 62840–62841
University of Southern Maine, Muskie School of Public Service, 62840
Awards of Single-Source Grants:
Chapin Hall at University of Chicago, Chicago, IL, 62841–62842

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62760–62761

Defense Department
See Engineers Corps
NOTICES
Arms Sales Notifications, 62767–62806

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62806–62807

Employee Benefits Security Administration
NOTICES
Grants of Individual Exemptions:
General Motors Co., General Motors Holdings LLC, and General Motors LLC, Detroit, MI, 62879–62889

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission

Energy Efficiency and Renewable Energy Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62807

Engineers Corps
NOTICES
Environmental Impact Statements; Availability, etc.:
Superior National Forest, MN, 62756–62758

Environmental Protection Agency
PROPOSED RULES
2017 and Later Model Year Light Duty Vehicle GHG Emissions and CAFE Standards, 62739–62750
Notifications to Secretary of Agriculture:
Revisions to EPA Rule on Protections for Subjects in Human Research Involving Pesticides, 62738–62739
NOTICES
Federal Agency Hazardous Waste Compliance Docket, 62810–62815

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 62815

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
Pacific Aerospace Limited Model FU24–954 and FU24A–954 Airplanes, 62716–62718

Federal Communications Commission
RULES
Radio Broadcasting Services:
Grants Pass, Oregon, 62690
WRC–07 Table Clean-up Order, 62924–63031

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62815–62818
Meetings; Sunshine Act, 62818–62819

Federal Deposit Insurance Corporation
NOTICES
Updated Listing of Financial Institutions in Liquidation, 62819

Federal Emergency Management Agency
PROPOSED RULES
Flood Elevation Determinations, 62750–62751
Proposed Flood Elevation Determinations, 62750–62754

Federal Energy Regulatory Commission
NOTICES
Environmental Assessments; Availability, etc.:
Propsed Princeton Lateral Project; Northern Border Pipeline Co., 62807–62808
Initial Market-Based Rate Filings Include Request for Blanket Section 204 Authorization:
Astoria Energy II LLC, 62809
Eagle Power Authority, Inc., 62808–62809
Technical Conferences:
Transmission Vegetation Management Practices, 62809

Federal Financial Institutions Examination Council
NOTICES
Meetings:
Appraisal Subcommittee, 62819–62820

Federal Highway Administration
NOTICES
Limitations on Claims for Judicial Reviews of Actions by FHWA:
Final Federal Agency Actions on Proposed Highway in Vermont, 62919
Final Federal Agency Actions on Route 250 Bypass Interchange at McIntire Road Project in Virginia, 62919–62920

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of Bank or Bank Holding Company, 62820

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 62820

Federal Transit Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62917–62919

Fish and Wildlife Service
NOTICES
Endangered and Threatened Wildlife and Plants:
Kauai Island Utility Cooperative, Kauai, HI; Habitat Conservation Plan for Operation and Maintenance, etc.; Permit, 62850–62851

Food and Drug Administration
NOTICES
Agreement To Support Global Capacity for the Surveillance and Monitoring of Counterfeit/Falsified Medicines, etc., 62837–62838
Public Workshops:
Innovations in Technology for Treatment of Diabetes; Clinical Development of Artificial Pancreas, 62844–62845

Foreign Agricultural Service
NOTICES
Trade Adjustment Assistance for Farmers, 62759–62760

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Mt. Hood National Forest, OR; Cooper Spur–Government Camp Land Exchange, 62755–62756
Superior National Forest, MN, 62756–62758
Meetings:
Fresno County Resource Advisory Committeee, 62758–62759

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
RULES
Health Information Technology:
Revisions to Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology, 62686–62690
NOTICES
Screening Framework Guidance for Providers of Synthetic Double-Stranded DNA, 62820–62832

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62836–62837
Meetings:
Advisory Council on Blood Stem Cell Transplantation, 62843–62844

Homeland Security Department
See Federal Emergency Management Agency
See U.S. Customs and Border Protection

Housing and Urban Development Department
NOTICES
Funding Awards:
Self-Help Homeownership Opportunity Program (SHOP) for 2009 Fiscal Year, 62849–62850

Indian Affairs Bureau
NOTICES
Reno–Sparks Indian Colony Liquor Control Ordinance, 62853–62856

Industry and Security Bureau
RULES
Wassenaar Arrangement 2009 Plenary Agreements Implementation:
Categories 1, 2, 3, 4, 5 Part I, 6, 7, and 9 of Commerce Control List, Definitions, Reports; Correction, 62675–62676

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Amended Final Results of Antidumping Duty Administrative Review Pursuant to a Court Decision:
Ball Bearings and Parts Thereof from Germany, 62763
Application(s) for Duty-Free Entry of Scientific Instruments, 62763–62764
Continuation of Antidumping Duty Orders:
Chlorinated Isocyanurates from Spain and the People's Republic of China, 62764–62765
Extension of Time Limit for the Final Results of the 2008–2009 Administrative Review of the Antidumping Duty Order:
Silicon Metal from the People's Republic of China, 62765
Final Results of Antidumping Duty Changed-Circumstances Review:
Carbazole Violet Pigment 23 from India, 62765–62766
First Antidumping Duty Administrative Reviews:
Sodium Hexametaphosphate from People's Republic of China; Extension of Time Limit for Final Results, 62766

Justice Department
See Antitrust Division
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
SENTRY Synthetic Drug Early Warning and Response System, 62857
Lodging of Consent Decrees under CERCLA, 62857–62858

Labor Department
See Employee Benefits Security Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Records of Decision and Approved Plan Amendments; Availability:
Chevron Energy Solutions Lucerne Valley Solar Project, CA; California Desert Conservation Area Plan, 62852–62853
Records of Decision and Associated Amendments; Availability, etc.:
Imperial Valley Solar Project; California Desert Conservation Area Resource Management Plan–Amendment, Imperial County, CA, 62853

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 62889–62891

National Highway Traffic Safety Administration
PROPOSED RULES
2017 and Later Model Year Light Duty Vehicle GHG Emissions and CAFE Standards, 62739–62750

National Institutes of Health
NOTICES
Workshop Series on Best Practices for Regulatory Safety Testing:
Assessing the Potential for Chemically Induced Eye Injuries and Chemically Induced Allergic Contact Dermatitis, 62845–62847

National Oceanic and Atmospheric Administration
RULES
Atlantic Highly Migratory Species:
Inseason Action to Close Commercial Non-sandbar Large Coastal Shark Research Fishery, 62690–62691
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Socio-Economic Assessment of Snapper Grouper Fisheries in U.S. Caribbean, 62762

National Park Service
NOTICES
National Register of Historic Places:
Pending Nominations and Related Actions, 62851–62852
Pending Removal of Listed Property, 62852

National Science Foundation
NOTICES
Meetings:
Advisory Committee for Mathematical and Physical Sciences, 62891
Permit Applications Received Under 1978 Antarctic Conservation Act, 62891–62892
Permit Applications Received Under the Antarctic Conservation Act of 1978, 62892

Natural Resources Conservation Service
NOTICES
Proposed Changes to Section IV of the Virginia State Technical Guide, 62759

Nuclear Regulatory Commission
PROPOSED RULES
Draft Guidance Documents:
Physical Protection of Byproduct Material; Category 1 and Category 2 Quantities of Radioactive Material, 62694–62695
Physical Protection of Irradiated Reactor Fuel in Transit, 62695–62716
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62892–62893
Draft Regulatory Guides; Issuance, Availability, 62893–62894
Environmental Assessments; Availability, etc.:
Massachusetts Institute of Technology Research Reactor, 62892
Meetings; Sunshine Act, 62894–62895
Safety Evaluation Reports; Availability:
AREVA Enrichment Services LLC; Eagle Rock Enrichment Facility, Bonneville County, ID, 62895–62896

Occupational Safety and Health Administration
NOTICES
Grant of Permanent Variances:
Keystone Steel and Wire Co., 62874–62879

Patent and Trademark Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62761–62762
Interim Patent Term Extensions:
Grant of U.S. Patent No. 4,919,140; Andara OFS System, 62767
Grant of U.S. Patent No. 5,407,914; SURFAXIN (lucinactant), 62766–62767

Postal Service
NOTICES
Product Changes:
Express Mail Negotiated Service Agreement, 62896
Priority Mail Negotiated Service Agreement, 62896

Securities and Exchange Commission
PROPOSED RULES
Dodd–Frank Wall Street Reform and Consumer Act:
Disclosure for Asset-Backed Securities, 62718–62737
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62897–62899
Self-Regulatory Organizations; Proposed Rule Changes:
Financial Industry Regulatory Authority, Inc., 62901–62902, 62904–62905, 62911–62913
Fixed Income Clearing Corp., 62899
International Securities Exchange, LLC, 62900–62901
NASDAQ OMX BX, Inc., 62902–62904
National Stock Exchange, Inc., 62910–62911
NYSE Arca, Inc., 62905–62909

Small Business Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62896
Disaster Declarations:
Arizona, 62896–62897
Iowa; Amendment 4, 62897
Meetings:
National Small Business Development Center Advisory Board, 62897

Social Security Administration
RULES
Disability Determinations by State Agency Disability Examiners, 62676–62684

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Form DS–11 Application for U.S. Passport, 62914
Form DS–3053, Statement of Consent or Special Circumstances; Issuance of Passport to under Age 16 Minor, 62913–62914
Form DS–4085 Application for Additional Visa Pages or Miscellaneous Passport Services, 62915–62916
Form DS–5504, Application for U.S. Passport; Name Change, Data Correction, and Limited Passport Book Replacement, 62913
Form DS–82, U.S. Passport Renewal Application for Eligible Individuals, 62915
Culturally Significant Objects Imported for Exhibition Determinations:
India's Fabled City; Art of Courtly Lucknow, 62916
Persons and Entities on Whom Sanctions have been Imposed under 1996 Iran Sanctions Act, 62916
Re-Delegation of Authority:
Under Secretary of State to The Director, Office of Chemical and Biological Weapons Affairs, 62916–62917

Substance Abuse and Mental Health Services Administration
NOTICES
Current List of Laboratories which Meet Minimum Standards to Engage in Urine Drug Testing for Federal Agencies, 62842–62843

Surface Transportation Board
NOTICES
Modified Rail Certificates:
Eastern Berks Gateway Railroad Co., Berks County, PA, 62920–62921

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Transit Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
PROPOSED RULES
Privacy Act of 1974; Proposed Implementations, 62737–62738
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 62921
Senior Executive Service; Legal Division Performance Review Board:
Appointment of Members, 62921

U.S. Customs and Border Protection
NOTICES
Final Determination Concerning an ADFLO Respiration System, 62847–62849

Separate Parts In This Issue

Part II
Federal Communications Commission, 62924–63031

Reader Aids
Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

8581 63035
8582 63037

7 CFR

Proposed Rules:

6 62692
205 62693

10 CFR

Proposed Rules:

37 62694
73 62695

14 CFR

Proposed Rules:

39 62716

15 CFR

772 62675
774 62675

17 CFR

Proposed Rules:

229 62718
240 62718
249 62718

20 CFR

404 62676
416 62676

31 CFR

Proposed Rules:

1 62737

40 CFR

Proposed Rules:

26 62738
85 62739
86 62739
600 62739

44 CFR

Proposed Rules:

67 (3 documents) 62750, 62751

45 CFR

162 62684
170 62686

47 CFR

1 62924
2 62924
15 62924
25 62924
73 (2 documents) 62690, 62924
90 62924

49 CFR

Proposed Rules:

531 62739
533 62739

50 CFR

635 62690

Rules and Regulations

Federal Register

Vol. 75, No. 197

Wednesday, October 13, 2010

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 772 and 774

[Docket No. 100413184–0299–01]

RIN 0694–AE91

Wassenaar Arrangement 2009 Plenary Agreements Implementation: Categories 1, 2, 3, 4, 5 Part I, 6, 7, and 9 of the Commerce Control List, Definitions, Reports; Correction

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Correcting amendments.

SUMMARY: The Bureau of Industry and Security (BIS) published a final rule in the **Federal Register** on Tuesday, September 7, 2010 (75 FR 54271) that revised the Export Administration Regulations (EAR) by amending entries for certain items that are controlled for national security reasons in Categories 1, 2, 3, 4, 5 Part I (telecommunications), 6, 7, and 9; adding new entries to the Commerce Control List; revising reporting requirements; and adding and amending EAR Definitions. That final rule contained errors that affected Export Control Classification Numbers (ECCNs) 6A005, 6A008, and 9A001, as well as the definition of "energetic materials." In addition, that final rule's preamble erroneously identified ECCN 6E993 as one of the ECCNs that was revised in the rule's text. This document corrects these errors.

DATES: *Effective Date:* This rule is effective: October 13, 2010.

FOR FURTHER INFORMATION CONTACT: For general questions contact Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at (202) 482–2440 or by *e-mail: scook@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2010, the final rule, "Wassenaar Arrangement 2009 Plenary Agreements Implementation: Categories 1, 2, 3, 4, 5 Part I, 6, 7, and 9 of the Commerce Control List, Definitions, Reports" was published in the **Federal Register** (75 FR 54271). The preamble of the September 7th rule listed ECCN 6E993 as one of the ECCNs that was revised, but it was not, in fact, revised by the rule. Through publication of this rule, BIS is clarifying that ECCN 6E993 was not revised by the September 7th rule. The September 7th rule also added an incomplete definition for "energetic materials" in section 772.1. This rule corrects that error by adding the missing text to the definition.

In the Commerce Control List, the rule did not remove a note after 6A008.f that had been moved to the items paragraph of ECCN 6A008. This rule removes the note after 6A008.f. Also, the rule listed an incorrect citation of "6.A.5.d.1.d" instead of "6A005.d.1.d" in 6A005.d.1.e; this rule corrects this citation. The rule also included two incomplete citations in the introductory text of ECCN 9A001.a; this rule replaces the citations ".a or .h" with "9E003.a or 9E003.h".

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves two collections of information subject to the PRA. One of the collections has been approved by OMB under control number 0694–0088, "Multi Purpose Application," and carries a burden hour estimate of 58 minutes for a manual or electronic submission. The other of the collections has been approved by OMB under control number 0694–0106, "Reporting and Recordkeeping Requirements under the Wassenaar Arrangement," and carries a burden hour estimate of 21 minutes for a manual or electronic submission. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to Jasmeet Seehra, OMB Desk Officer, by e-mail at *Jasmeet_K._Seehra@omb.eop.gov* or by fax to (202) 395–7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6622, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). The changes contained in this rule are non-substantive technical corrections of a previously published rule that has already been exempted from notice and comment and delay in effective date provisions because the content of the September 7, 2010 rule involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). The corrections contained in this final rule are essential to ensuring the accurate and complete implementation of the September 7th rule.

Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230.

List of Subjects

15 CFR Part 772

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, Parts 772 and 774 of the Export Administration Regulations (15 CFR Parts 730–774) are amended as follows:

PART 772—[AMENDED]

■ 1. The authority citation for Part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2010, 75 FR 50681 (August 16, 2010).

■ 2. Section 772.1 is amended by adding the phrase "subclasses of energetic materials." to the end of the definition for "Energetic materials."

PART 774—[AMENDED]

■ 3. The authority citation for Part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.,* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2010, 75 FR 50681 (August 16, 2010).

■ 4. In Supplement No. 1 to Part 774 (the Commerce Control List):

■ a. Category 6 Sensors, ECCN 6A005 is amended by removing the reference "6.A.5.d.1.d" and adding in its place "6A005.d.1.d" in paragraph d.1.e in the Items paragraph of the List of Items Controlled section.

■ b. Category 6—Sensors, ECCN 6A008 is amended by removing the Note from paragraph f in the Items paragraph of the List of Items Controlled section.

■ c. Category 9, Aerospace and Propulsion, ECCN 9A001 is amended by revising the introductory text of paragraph (a) in the Items paragraph of the List of Items Controlled section to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

9A001 Aero gas turbine engines having any of the following (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

a. Incorporating any of the technologies controlled by 9E003.a or 9E003.h; *or*

* * * * *

Bernard Kritzer,

Director, Office of Exporter Services.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2008–0041]

RIN 0960–AG87

Disability Determinations by State Agency Disability Examiners

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising our rules on a temporary basis to permit State agency disability examiners to make fully favorable determinations in certain claims for disability benefits under titles II and XVI of the Social Security Act (Act) without the approval of a State agency medical or psychological consultant. These changes apply only to claims we consider under our rules for quick disability determinations (QDD) or under our compassionate allowance initiative.

DATES: These final rules are effective on November 12, 2010.

FOR FURTHER INFORMATION CONTACT: Nancy Schoenberg, Office of Compassionate Allowances and Disability Outreach, Social Security Administration, 4692 Annex, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–9408, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

Our Current Rules

Under our current rules, a State agency disability examiner and a State agency medical or psychological consultant generally work together to make a disability determination at the first two levels of the administrative review process for adjudicating disability claims under titles II and XVI of the Act.[1] The members of the team are jointly responsible for the determination.[2] Except in prototype States, a State agency disability examiner may solely make a disability determination, without consulting a medical consultant, only when there is no medical evidence to evaluate and the claimant fails or refuses, without a good reason, to undergo a consultative examination.[3]

Although we evaluate all disability claims using the same criteria, we have developed two methods for expediting certain claims where there is a high probability that we will find the claimant disabled. In the QDD process, we use a computer-based predictive model to analyze specific elements of data in electronic claim files. The predictive model identifies claims in which there is a high potential that the claimant is disabled and in which we can quickly and easily obtain evidence supporting the claimant's allegations.[4] In the compassionate allowance initiative, we use a list of conditions to quickly identify diseases and other medical conditions that invariably qualify under the Listing of Impairments ("listings") in our regulations[5] at step 3 of the sequential evaluation process for initial claims[6] based on minimal, but sufficient, objective medical information.[7]

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[1] 20 CFR 404.900 and 416.1400.

[2] 20 CFR 404.1615(c)(1) and 416.1015(c)(1).

[3] 20 CFR 404.1615(c)(2) and 416.1015(c)(2). In some States, we are testing a modification to the disability determination procedures that allows State agency disability examiners called "single decisionmakers" (SDM) to make both favorable and unfavorable determinations alone in some cases; that is, without working in a team with a medical or psychological consultant. 20 CFR 404.906(b)(2) and 416.1406(b)(2). We are continuing that testing. However, the changes in these final rules apply in all States, including SDM States. They allow SDMs and other disability examiners to make fully favorable determinations alone in QDD and compassionate allowance claims.

[4] 20 CFR 404.1619 and 416.1019. Our data demonstrate that the model is working as we intend. See, for example, "Good Practices in Social Security: The Quick Disability Determination (QDD) and Compassionate Allowances (CAL) Initiatives: A case of the Social Security Administration," International Social Security Association (ISSA), 2009, available at: *http://www.issa.int/aiss/Observatory/Good-Practices/The-Quick-Disability-Determination-QDD-and-Compassionate-Allowances-CAL-Initiatives*. In that paper, we reported to ISSA that the processing time for QDD allowances is about 12 days.

[5] 20 CFR part 404 subpart P appendix 1, which also applies to title XVI under 20 CFR 416.925.

[6] 20 CFR 404.1520(a)(4)(iii) and (d) and 416.920(a)(4)(iii) and (d).

[7] See, generally, *http://www.socialsecurity.gov/compassionateallowances/*. In October 2008, we issued an initial list of 50 conditions that we consider for compassionate allowance. See *http://www.socialsecurity.gov/compassionateallowances/conditions.htm.* We created this list based on input

New QDD and Compassionate Allowance Rules

These final rules allow disability examiners to make certain fully favorable determinations under our QDD rules or under our compassionate allowance initiative without the approval of a medical or psychological consultant. This change is consistent with our goal to allow cases that should be allowed as quickly as possible.[8] It will also help us to process cases more efficiently because it will give State agency medical and psychological consultants more time to work on those complex cases for which we need their expertise. To accommodate this change, we are redesignating current 20 CFR 404.1615(c)(3) and 416.1015(c)(3) as (c)(4) and adding new paragraphs 20 CFR 404.1615(c)(3) and 416.1015(c)(3).

This revision is a change from our prior position. When we published final rules extending the QDD process to all States,[9] we declined to adopt a comment to allow disability examiners to make determinations without a medical or psychological consultant's involvement.[10] However, we now have about 3 years of experience using the QDD process nationally, and even longer experience in our Boston region. In light of our experience adjudicating QDD and compassionate allowance cases and our quality assurance reviews of determinations made in States that use single decisionmakers (SDMs), we believe it is appropriate to allow disability examiners to make some fully favorable determinations without a medical or psychological consultation. Our quality assurance reviews for the past 2 fiscal years show that the accuracy rates in the States that use SDMs are comparable to, if not higher than, the accuracy rates in those States that do not use SDMs. Moreover, many of the determinations included in our quality assurance reviews are more complex than QDD and compassionate allowance determinations.

For these reasons, we expect that the accuracy rates of QDDs and compassionate allowance determinations made solely by State agency disability examiners will be comparable to the accuracy rate of the determinations now made in consultation with medical examiners. We will also have measures in place, in addition to quality assurance reviews, that will provide us with information about the quality of QDDs and compassionate allowance determinations. Therefore, we will be monitoring these determinations made by State agency disability examiners. We are also including a 3-year "sunset date," after which final sections 404.1615(c)(3) and 416.1015(c)(3) will no longer be effective, unless we terminate the rules earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

State agency disability examiners who make fully favorable determinations under these final rules will still have the option of consulting with State agency medical and psychological consultants when they deem it necessary. We will continue to require State agency disability examiners to consult with State agency medical or psychological consultants before they make a fully favorable determination based on a claimant's impairment(s) medically equaling the severity of a listing at step 3.[11] Further, to make a fully favorable determination at step 5, adjudicators generally must first determine that a claimant does not have an impairment(s) that meets or medically equals a listing. In these cases, they will have also had to consult with a medical or psychological consultant to determine that there were no impairments that medically equaled a listing.[12] Regardless of whether the State agency disability examiner chooses to consult with a State agency medical or psychological consultant or is required to do so, the disability examiner is solely responsible for the determination.

These final rules do not apply to claims for supplemental security income payments under title XVI for persons under age 18. The Act requires us to make reasonable efforts to ensure that a qualified pediatrician or other medical professional who specializes in a field of medicine appropriate to the child's medical impairment(s) evaluates the child's case.[13] We interpret this statutory requirement to mean that a medical or psychological consultant must participate as part of a team in all State agency determinations of childhood disability under title XVI, including fully favorable determinations.

Other Changes

These final rules apply only to claims adjudicated under the QDD process or the compassionate allowance initiative. Our current regulations explain the QDD process but not the compassionate allowance initiative. Therefore, we are adding a definition of "compassionate allowance" in 20 CFR 404.1602 and 416.1002, the sections of part 404 subpart Q and part 416 subpart J that provide definitions of terms.

We are also making a number of conforming changes to our rules to reflect our QDD and compassionate allowance rules in final 20 CFR 404.1615(c)(3) and 416.1015(c)(3). For example, we are revising 20 CFR 404.1546 and 416.946 to recognize that it is possible in some cases for a State agency disability examiner to be responsible for assessing a claimant's residual functional capacity. We are also revising 20 CFR 404.1512, 404.1527, 416.912, and 416.927 to account for situations in which State agency disability examiners will weigh State agency medical or psychological consultant input as opinion evidence. These rules are similar to our current rules for administrative law judges (ALJs) and the Appeals Council (when the Appeals Council makes a decision). We are revising 20 CFR 404.1520a and 416.920a to authorize State agency disability examiners to evaluate the severity of mental impairment(s), and to complete the standard document showing how the disability examiner applied the special technique required by that section, in cases in which they make fully favorable QDD and compassionate allowance determinations when claimants have a mental impairment(s). While we did not propose specific revisions to 20 CFR 404.1520a and 416.920a in the NPRM, these revisions are consistent with our proposal to allow State agency disability examiners to decide QDD and compassionate allowance cases without the approval of a medical or psychological consultant. Because the current QDD model and the current list of compassionate allowance conditions include mental impairments, we need to make these revisions to allow State agency disability examiners to decide those cases alone, as we proposed.

These final rules include revisions to rules that relate to both the initial and reconsideration levels of the administrative review process under 20 CFR 404.1602 and 416.1002. We are making these revisions because:

from a variety of sources, including the public. See, for example, 72 FR 41649 (2007), 73 FR 10715 (2008), and 73 FR 66563 (2008). On March 1, 2010, we added another 38 conditions. See *http://www.socialsecurity.gov/compassionateallowances/newconditions.htm*. We plan to obtain more public input to determine whether and how to expand the list over time.

[8] See Social Security Administration Strategic Plan 2008–2013, Strategic Goal 2, *http://www.ssa.gov/asp/StrategicGoal2.pdf*.

[9] 72 FR 51173 (Sept. 6, 2007).

[10] Id. at 51175.

[11] 20 CFR 404.1526(c) and 416.926(c).

[12] 20 CFR 404.1520(a)(4) and 416.920(a)(4). Fully favorable determinations based on medical equivalence or at step 5 are only a relatively small fraction of the QDD and compassionate allowance determinations we have made so far.

[13] Section 1614(a)(3)(I) of the Act and 20 CFR 416.903(f) and 416.1015(e).

(1) Unlike the QDD process, the compassionate allowance initiative is not limited to the initial level of administrative review; and (2) any claimant who is dissatisfied with our determination—even a determination allowing a claimant's claim in full—may request a reconsideration.[14]

Finally, we are making minor editorial changes to several rules to recognize that State agency medical consultants are not always physicians. These changes will conform these rules to current 20 CFR 404.1616 and 416.1016. We also are correcting a grammatical error in 20 CFR 404.1619(b)(2) and 416.1019(b)(2) and making other minor editorial changes throughout these final rules.

Relationship of These Rules to Notice of Proposed Rulemaking "Reestablishing Uniform National Disability Adjudication Provisions"

We published a notice of proposed rulemaking (NPRM) "Reestablishing Uniform National Disability Adjudication Provisions" in the **Federal Register** on December 4, 2009. 74 FR 63688. We proposed different revisions to several of the regulatory sections revised by these final rules. The language in these final rules is controlling. We are still evaluating the comments on the December 4, 2009, NPRM.

Public Comments

We published a NPRM in the **Federal Register** on March 4, 2010, and we gave the public 30 days to comment on the NPRM. 75 FR 9821. We received comments from five persons and organizations during this period. We carefully read and considered each of them. They are available for public viewing at *http://www.regulations.gov.* Because some of the comments were long, we have condensed, summarized, and paraphrased them. We have tried to summarize the commenters' views accurately and to respond to the significant issues raised by the commenters that were within the scope of these rules.

Comment: Four of the commenters supported our proposed rules, but one commenter opposed them based on his experience working as a medical consultant in a State agency. He said that his State agency's attempt to have disability examiners make determinations without medical consultant involvement or approval failed and would fail again. The commenter generally questioned the qualifications of disability examiners, State agency managers, and quality control personnel. The commenter said that our "[p]ilot studies with tight controls and everybody acting on good behavior" would not be representative of the deterioration in quality that he thought would occur over time under our proposed rules. He preferred that State agency disability examiners continue to work with State agency medical consultants on all claims to achieve a balance in quality and resist possible "corruption of the [decisionmaking] process."

Response: We disagree with this comment. We are confident that disability examiners are competent and able to make these fully favorable determinations. Our confidence is bolstered by the success of the pilot. We simply do not agree with the commenter's assessment of the skills and competence of disability examiners, managers, and quality control personnel. We believe they are highly-skilled and capable employees who do a fine job for us.

Moreover, the commenter's personal experience with one State agency ended almost 20 years ago. His personal experience does not take into account our more recent experience with the SDM initiatives. Our more recent experience, which involves the adjudication of tens of thousands of cases in 20 State agencies, does not show the types of problems cited by the commenter.

Furthermore, these final rules allow State agency disability examiners to make only fully favorable QDD and compassionate allowance determinations. Our procedures for the two initiatives ensure that we select cases that we are very likely to allow. In fact, we make fully favorable determinations in the great majority of cases we identify for QDD and compassionate allowances. Given our program experience using these initiatives, we believe that we do not need State agency medical or psychological consultants to approve these determinations and that the State agencies can better use the services of their medical and psychological consultants for more complex cases in which we need their medical expertise.

Moreover, we are confident that we will be able to quickly detect and correct any quality issues, should they occur, through our quality assurance reviews. We are also required by statute to review at least 50 percent of all State agency allowances,[15] and this sample includes QDD and compassionate allowance determinations. To further ensure that these final rules do not result in any unforeseen or unintended consequences, we are including in final sections 404.1615(c)(3) and 416.1015(c)(3) a 3-year sunset date and a provision that allows us to terminate the new process even sooner if we determine that it would be appropriate to do so.

Comment: The same commenter also said that our NPRM was "unbalanced" because we authorized State agency disability examiners to make only fully favorable determinations. The commenter asserted that this restriction indicated that we believed that State agency disability examiners were more competent to make allowance determinations than denials and that claimants deserve professional medical input before being denied benefits. Another commenter thought our NPRM was too restrictive and asked us to authorize State agency disability examiners to also make partially favorable determinations, such as favorable determinations with onset dates later than claimants allege.

Response: We disagree with the first commenter. We want to make fully favorable determinations as quickly as possible for claimants who should receive them. We have determined that State agency disability examiners are capable of making fully favorable QDD and compassionate allowance determinations.

The first commenter seems to have also misunderstood the intent of our proposal. We proposed, and decided to adopt, rules that apply only to a subset of our allowance determinations, not all allowances. As we explain above, we have been and are still conducting another project that authorizes State agency disability examiners to make both more complex favorable determinations and unfavorable determinations.[16]

We also did not adopt the second comment to authorize State agency disability examiners to make partially favorable determinations. These determinations require findings that a claimant was either disabled at a later onset date than the claimant alleged or that the claimant had a "closed" period of disability and is no longer disabled. Thus, the same considerations that led us to exclude unfavorable determinations and continuing disability reviews also apply to partially favorable determinations. We proposed to authorize State agency disability examiners to make only what are essentially some of the most obvious allowance determinations in our

[14] 20 CFR 404.907 and 416.1407.

[15] Sections 221(c)(3) and 1633(e)(2) of the Act.

[16] See footnote 3, above.

caseload. At this time, we are not expanding that authority to partially favorable or unfavorable determinations.

Comment: We received two comments about the sunset date from commenters who supported the NPRM. One commenter asked why we included a sunset date and suggested that we make these rules permanent. Another commenter supported the sunset date in case we find that the process is not working satisfactorily.

Response: We decided to include a sunset date for these rules because we believe that we need to evaluate how the rules work in practice. If we decide based on that evaluation that the process is not working satisfactorily, the sunset date will allow us to let the program expire without the need for an additional change to our rules. The sunset date requires us only to publish a final rule in the **Federal Register** to notify the public if we decide to extend the process beyond the 3-year period or to terminate it before the expiration of that period. We do not need to publish new regulations or propose changes if we want the process to end at the expiration of the 3-year period. We have used sunset dates in some of our other rules, and we have extended them when we have determined that they are working well. For example, on July 13, 2009, we extended our rules that allow attorney advisors in hearing offices to conduct prehearing proceedings, which include issuing fully favorable decisions at the ALJ hearing level.[17]

Comment: One commenter disagreed with the statement in our preamble that said: "We would also require State agency disability examiners to consult with State agency medical or psychological consultants before they make a fully favorable determination based on medical equivalence to a listing at step 3 or based on a finding of inability to do other work at step 5 of our sequential evaluation process."[18] The commenter wanted us to authorize State agency disability examiners to make fully favorable determinations based on medical equivalence without needing to first obtain "approval" from State agency medical or psychological consultants. The commenter believed that the requirement we described would severely restrict disability examiner authority in QDD and compassionate allowance claims and make the rules "almost impractical."

Response: We believe the commenter may have misunderstood our proposed rule. We did not say that State agency disability examiners would need approval from a State agency medical or psychological consultant before issuing a fully favorable determination in this process. We simply explained that State agency disability examiners who are solely responsible for QDD and compassionate allowance determinations would be subject to the same rules about determining medical equivalence as other decisionmakers at other levels of our administrative review process when we cannot allow a case as a QDD or compassionate allowance.

Under our longstanding regulations, all adjudicators at all levels of the administrative review process must consider the opinion of "one or more medical or psychological consultants designated by the Commissioner" whenever they make a finding that an impairment(s) does or does not medically equal a listing. 20 CFR 404.1526(c) and 416.926(c).

These requirements apply to State agency disability examiners. At the initial and reconsideration levels of the administrative review process, the requirement for medical or psychological consultant input is normally satisfied because a State agency medical or psychological consultant is part of a team that makes the determination.

We disagree with the commenter's opinion that requiring State agency disability examiners to follow the same rule as other adjudicators would make our proposal impractical. Most claimants who qualify under the QDD and compassionate allowance initiatives have impairments that meet listings, and these rules do not require disability examiners to consult with a medical or psychological consultant before determining that a claimant's impairment(s) meets a listing.

Under the new process in these final rules, State agency disability examiners will be solely responsible for their fully favorable QDD and compassionate allowance determinations. Nevertheless, if in QDD and compassionate allowance cases, disability examiners are not able to find that a claimant's impairment(s) meets the severity of a listed impairment, they will need to follow the longstanding requirement to obtain an opinion about medical equivalence from medical or psychological consultants. Although they must obtain and review such opinions, State agency disability examiners are not bound to accept them as binding, and the State agency medical or psychological consultants will not need to "approve" the determinations.

Also, these final rules do not require a State agency disability examiner to obtain an opinion about residual functional capacity before making a fully favorable determination. In the NPRM's preamble, we were explaining only that, to allow a case at step 5 of the sequential evaluation process, a State agency disability examiner will necessarily have had to obtain a State agency medical or psychological consultant's opinion about medical equivalence at step 3.

Authority for These Final Rules

Under the Act, we have full power and authority to make rules and regulations and to establish necessary or appropriate procedures to carry out the provisions of the Act. Sections 205(a), 702(a)(5), and 1631(d)(1). In addition, we have the power to promulgate regulations that establish the procedures State agencies must follow when performing the disability determination function for us. Sections 221(a)(2) and 1633.

Regulatory Procedures

Executive Order 12866

We consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866. Thus, OMB reviewed them.

The Office of the Chief Actuary provided two estimates of the effects of these final rules, due to uncertainty over the extent to which the compassionate allowance initiative and the predictive model underlying the QDD process can be enhanced. The first estimate assumes the percent of cases designated QDD or compassionate allowance remains at the recent level (3.8%). The second estimate assumes that we will adjudicate 6% of all cases under the QDD or compassionate allowance models by the end of fiscal year (FY) 2012. The following table presents the year-by-year estimates of the effect of these final rules on OASDI benefit payments and Federal SSI payments for the fiscal year period 2010–2019 under these two sets of assumptions. All estimates are based on the assumptions underlying the President's FY 2010 Budget and assume these final rules are effective July 1, 2010. The estimates reflect projected costs should the changes be extended through 2019.

[17] "Attorney Advisor Program Sunset Date Extension," 74 FR 33327.

[18] 75 FR at 9822.

TABLE 1—ESTIMATED INCREASES IN OASDI BENEFITS AND FEDERAL SSI PAYMENTS—RETAIN QDD AND COMPASSIONATE ALLOWANCE AT 3.8% OF ALL INITIAL RECEIPTS

[In millions]

Fiscal year	OASDI	SSI	Total
2010	*	*	*
2011	*	*	*
2012	$1	*	$1
2013	1	*	1
2014	1	*	1
2015	1	*	1
2016	1	*	1
2017	1	*	1
2018	1	*	2
2019	2	*	2
Totals:			
2010–14	2	*	3
2010–19	9	1	10

* Increase in OASDI benefit payments or Federal SSI payments of less than $500,000. (Totals may not equal the sum of components due to rounding.)

TABLE 2—ESTIMATED INCREASES IN OASDI BENEFITS AND FEDERAL SSI PAYMENTS—EXPAND QDD AND COMPASSIONATE ALLOWANCE TO 6% OF ALL INITIAL RECEIPTS

[In millions]

Fiscal year	OASDI	SSI	Total
2010	*	*	*
2011	*	*	$1
2012	$1	*	1
2013	2	*	2
2014	2	*	2
2015	2	*	3
2016	3	*	3
2017	3	*	3
2018	3	*	4
2019	4	$1	4
Totals:			
2010–14	5	1	6
2010–19	20	3	23

* Increase in OASDI benefit payments or Federal SSI payments of less than $500,000. (Totals may not equal the sum of components due to rounding.)

Regulatory Flexibility Act

We certify that these final rules do not have a significant economic impact on a substantial number of small entities as they affect only States and individuals. Therefore, the Regulatory Flexibility Act, as amended, does not require us to make a regulatory flexibility analysis.

Paperwork Reduction Act

These final rules do not create any new or affect any existing collections. They do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program No 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Michael J. Astrue,

Commissioner of Social Security.

■ For the reasons set out in the preamble, we are amending 20 CFR part 404 subparts P and Q and part 416 subparts I and J as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P—[Amended]

■ 1. The authority citation for subpart P of part 404 is revised to read as follows:

Authority: Secs. 202, 205(a)–(b), and (d)–(h), 216(i), 221(a), (i), and (j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)–(b), and (d)–(h), 416(i), 421(a), (i), and (j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend § 404.1512 by removing the word "and" from the end of paragraph (b)(5), redesignating paragraph (b)(6) as paragraph (b)(8) and revising redesignated paragraph (b)(8), and adding new paragraphs (b)(6) and (b)(7) to read as follows:

§ 404.1512 Evidence.

* * * * *

(b) * * *

(6) At the initial level of the administrative review process, when a State agency disability examiner makes the initial determination alone (*see* § 404.1615(c)(3)), opinions provided by State agency medical and psychological consultants based on their review of the evidence in your case record (*see* § 404.1527(f)(1)(ii));

(7) At the reconsideration level of the administrative review process, when a State agency disability examiner makes the determination alone (*see* § 404.1615(c)(3)), findings, other than the ultimate determination about whether you are disabled, made by State agency medical or psychological consultants and other program physicians, psychologists, or other medical specialists at the initial level of the administrative review process, and other opinions they provide based on their review of the evidence in your case record at the initial and reconsideration levels (*see* § 404.1527(f)(1)(iii)); and

(8) At the administrative law judge and Appeals Council levels (including the administrative law judge and Decision Review Board levels in claims adjudicated under the procedures in part 405 of this chapter), findings, other than the ultimate determination about whether you are disabled, made by State agency medical or psychological consultants and other program physicians or psychologists, or other medical specialists, and opinions expressed by medical experts or psychological experts that we consult based on their review of the evidence in your case record. *See* §§ 404.1527(f)(2)–(3).

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■ 3. Amend § 404.1520a by adding a third sentence to the introductory text of paragraph (e), revising paragraph (e)(1), redesignating paragraphs (e)(2) and (e)(3) as paragraphs (e)(4) and (e)(5), and adding new paragraphs (e)(2) and (e)(3) to read as follows:

§ 404.1520a Evaluation of mental impairments.

* * * * *

(e) *Documenting application of the technique.* * * * The following rules apply:

(1) When a State agency medical or psychological consultant makes the determination together with a State agency disability examiner at the initial or reconsideration level of the administrative review process as provided in § 404.1615(c)(1), the State agency medical or psychological consultant has overall responsibility for assessing medical severity. At the initial level in claims adjudicated under the procedures in part 405 of this chapter, a medical or psychological expert (as defined in § 405.5 of this chapter) has overall responsibility for assessing medical severity. A State agency disability examiner may assist in preparing the standard document. However, our medical or psychological consultant (or the medical or psychological expert (as defined in § 405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) must review and sign the document to attest that it is complete and that he or she is responsible for its content, including the findings of fact and any discussion of supporting evidence.

(2) When a State agency disability examiner makes the determination alone as provided in § 404.1615(c)(3), the State agency disability examiner has overall responsibility for assessing medical severity and for completing and signing the standard document.

(3) When a disability hearing officer makes a reconsideration determination as provided in § 404.1615(c)(4), the determination must document application of the technique, incorporating the disability hearing officer's pertinent findings and conclusions based on this technique.

* * * * *

■ 4. Amend § 404.1527 by revising paragraph (f)(1), and revising paragraphs (f)(2)(i) and (f)(2)(ii) to read as follows:

§ 404.1527 Evaluating opinion evidence.

* * * * *

(f) * * *

(1) In claims adjudicated by the State agency, a State agency medical or psychological consultant (or a medical or psychological expert (as defined in § 405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) may make the determination of disability together with a State agency disability examiner or provide one or more medical opinions to a State agency disability examiner when the disability examiner makes the initial or reconsideration determination alone (*see* § 404.1615(c)). The following rules apply:

(i) When a State agency medical or psychological consultant makes the determination together with a State agency disability examiner at the initial or reconsideration level of the administrative review process as provided in § 404.1615(c)(1), he or she will consider the evidence in your case record and make findings of fact about the medical issues, including, but not limited to, the existence and severity of your impairment(s), the existence and severity of your symptoms, whether your impairment(s) meets or medically equals the requirements for any impairment listed in appendix 1 to this subpart, and your residual functional capacity. These administrative findings of fact are based on the evidence in your case but are not in themselves evidence at the level of the administrative review process at which they are made.

(ii) When a State agency disability examiner makes the initial determination alone as provided in § 404.1615(c)(3), he or she may obtain the opinion of a State agency medical or psychological consultant about one or more of the medical issues listed in paragraph (f)(1)(i) of this section. In these cases, the State agency disability examiner will consider the opinion of the State agency medical or psychological consultant as opinion evidence and weigh this evidence using the relevant factors in paragraphs (a) through (e) of this section.

(iii) When a State agency disability examiner makes a reconsideration determination alone as provided in § 404.1615(c)(3), he or she will consider findings made by a State agency medical or psychological consultant at the initial level of the administrative review process and any opinions provided by such consultants at the initial and reconsideration levels as opinion evidence and weigh this evidence using the relevant factors in paragraphs (a) through (e) of this section.

(2) * * *

(i) Administrative law judges are not bound by any findings made by State agency medical or psychological consultants, or other program physicians or psychologists. State agency medical and psychological consultants and other program physicians, psychologists, and other medical specialists are highly qualified physicians, psychologists, and other medical specialists who are also experts in Social Security disability evaluation. Therefore, administrative law judges must consider findings and other opinions of State agency medical and psychological consultants and other program physicians, psychologists, and other medical specialists as opinion evidence, except for the ultimate determination about whether you are disabled (see § 404.1512(b)(8)).

(ii) When an administrative law judge considers findings of a State agency medical or psychological consultant or other program physician, psychologist, or other medical specialist, the administrative law judge will evaluate the findings using the relevant factors in paragraphs (a) through (e) of this section, such as the consultant's medical specialty and expertise in our rules, the supporting evidence in the case record, supporting explanations the medical or psychological consultant provides, and any other factors relevant to the weighing of the opinions. Unless a treating source's opinion is given controlling weight, the administrative law judge must explain in the decision the weight given to the opinions of a State agency medical or psychological consultant or other program physician, psychologist, or other medical specialist, as the administrative law judge must do for any opinions from treating sources, nontreating sources, and other nonexamining sources who do not work for us.

* * * * *

■ 5. Amend § 404.1529 by removing "§§ 404.1512(b)(2) through (6)" in the third sentence of paragraph (a) and adding "§§ 404.1512(b)(2) through (8)" in its place, and by revising the third sentence of paragraph (b), to read as follows:

§ 404.1529 How we evaluate symptoms, including pain.

* * * * *

(b) * * * In cases decided by a State agency (except in disability hearings under §§ 404.914 through 404.918 and in fully favorable determinations made by State agency disability examiners alone under § 404.1615(c)(3)), a State agency medical or psychological consultant or other medical or psychological consultant designated by the Commissioner (or a medical or psychological expert (as defined in § 405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) directly participates in determining whether your medically determinable impairment(s) could reasonably be expected to produce your alleged symptoms. * * *

* * * * *

■ 6. Revise § 404.1546(a) to read as follows:

§ 404.1546 Responsibility for assessing your residual functional capacity.

(a) *Responsibility for assessing residual functional capacity at the State agency.*

When a State agency medical or psychological consultant and a State agency disability examiner make the disability determination as provided in § 404.1615(c)(1), a State agency medical or psychological consultant(s) (or a medical or psychological expert (as defined in § 405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) is responsible for assessing your residual functional capacity. When a State agency disability examiner makes a disability determination alone as provided in § 404.1615(c)(3), the disability examiner is responsible for assessing your residual functional capacity.

* * * * *

Subpart Q—[Amended]

■ 7. The authority citation for subpart Q of part 404 continues to read as follows:

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

■ 8. Amend § 404.1602 by adding a definition of "compassionate allowance" in alphabetical order to read as follows:

§ 404.1602 Definitions.

* * * * *

Compassionate allowance means a determination or decision we make under a process that identifies for expedited handling claims that involve impairments that invariably qualify under the Listing of Impairments in appendix 1 to subpart P based on minimal, but sufficient, objective medical evidence.

* * * * *

■ 9. Amend § 404.1615 by revising the introductory text of paragraph (c), removing the word "or" at the end of paragraph (c)(2), redesignating paragraph (c)(3) as paragraph (c)(4), and adding a new paragraph (c)(3) to read as follows:

§ 404.1615 Making disability determinations.

* * * * *

(c) Disability determinations will be made by:

* * * * *

(3) A State agency disability examiner alone if the claim is adjudicated under the quick disability determination process (*see* § 404.1619) or as a compassionate allowance (*see* § 404.1602), and the initial or reconsidered determination is fully favorable to you. This paragraph will no longer be effective on November 12, 2013 unless we terminate it earlier or extend it beyond that date by publication of a final rule in the **Federal Register**; or

* * * * *

■ 10. Amend § 404.1619 by revising paragraphs (b) introductory text, (b)(1), (b)(2), and (c) to read as follows:

§ 404.1619 Quick disability determination process.

* * * * *

(b) If we refer a claim to the State agency for a quick disability determination, a designated quick disability determination examiner must do all of the following:

(1) Subject to the provisions in paragraph (c) of this section, make the disability determination after consulting with a State agency medical or psychological consultant if the State agency disability examiner determines consultation is appropriate or if consultation is required under § 404.1526(c). The State agency may certify the disability determination forms to us without the signature of the medical or psychological consultant.

(2) Make the quick disability determination based only on the medical and nonmedical evidence in the file.

* * * * *

(c) If the quick disability determination examiner cannot make a determination that is fully favorable, or if there is an unresolved disagreement between the disability examiner and the medical or psychological consultant (except when a disability examiner makes the determination alone under § 404.1615(c)(3)), the State agency will adjudicate the claim using the regularly applicable procedures in this subpart.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

■ 11. The authority citation for subpart I of part 416 is revised to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

■ 12. Amend § 416.912 by removing the word "and" from the end of paragraph (b)(5), redesignating paragraph (b)(6) as paragraph (b)(8) and revising redesignated paragraph (b)(8), and adding new paragraphs (b)(6) and (b)(7) to read as follows:

§ 416.912 Evidence.

* * * * *

(b) * * *

(6) At the initial level of the administrative review process, when a State agency disability examiner makes the initial determination alone (see § 416.1015(c)(3)), opinions provided by State agency medical and psychological consultants based on their review of the evidence in your case record (see § 416.927(f)(1)(ii));

(7) At the reconsideration level of the administrative review process, when a State agency disability examiner makes the determination alone (see § 416.1015(c)(3)), findings, other than the ultimate determination about whether you are disabled, made by State agency medical or psychological consultants and other program physicians, psychologists, or other medical specialists at the initial level of the administrative review process, and other opinions they provide based on their review of the evidence in your case record at the initial and reconsideration levels (*see* § 416.927(f)(1)(iii)); and

(8) At the administrative law judge and Appeals Council levels (including the administrative law judge and Decision Review Board levels in claims adjudicated under the procedures in part 405 of this chapter), findings, other than the ultimate determination about whether you are disabled, made by State agency medical or psychological consultants and other program physicians or psychologists, or other medical specialists, and opinions expressed by medical experts or psychological experts that we consult based on their review of the evidence in your case record. See §§ 416.927(f)(2)–(3).

* * * * *

■ 13. Amend § 416.920a by adding a third sentence to the introductory text of paragraph (e), revising paragraph (e)(1), redesignating paragraphs (e)(2) and (e)(3) as paragraphs (e)(4) and (e)(5), and adding new paragraphs (e)(2) and (e)(3) to read as follows:

§ 416.920a Evaluation of mental impairments.

* * * * *

(e) *Documenting application of the technique.* * * * The following rules apply:

(1) When a State agency medical or psychological consultant makes the determination together with a State agency disability examiner at the initial or reconsideration level of the administrative review process as provided in § 416.1015(c)(1), the State agency medical or psychological consultant has overall responsibility for assessing medical severity. At the initial level in claims adjudicated under the procedures in part 405 of this chapter, a medical or psychological expert (as defined in § 405.5 of this chapter) has overall responsibility for assessing medical severity. A State agency disability examiner may assist in preparing the standard document. However, our medical or psychological consultant (or the medical or psychological expert (as defined in § 405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) must review and sign the document to attest that it is complete and that he or she is responsible for its content, including the findings of fact and any discussion of supporting evidence.

(2) When a State agency disability examiner makes the determination alone as provided in § 416.1015(c)(3), the State agency disability examiner has overall responsibility for assessing

medical severity and for completing and signing the standard document.

(3) When a disability hearing officer makes a reconsideration determination as provided in § 416.1015(c)(4), the determination must document application of the technique, incorporating the disability hearing officer's pertinent findings and conclusions based on this technique.

* * * * *

■ 14. Amend § 416.927 by revising paragraph (f)(1), and revising paragraphs (f)(2)(i) and (f)(2)(ii) to read as follows:

§ 416.927 Evaluating opinion evidence.

* * * * *

(f) * * *

(1) In claims adjudicated by the State agency, a State agency medical or psychological consultant (or a medical or psychological expert (as defined in § 405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) may make the determination of disability together with a State agency disability examiner or provide one or more medical opinions to a State agency disability examiner when the disability examiner makes the initial or reconsideration determination alone (see § 416.1015(c)). The following rules apply:

(i) When a State agency medical or psychological consultant makes the determination together with a State agency disability examiner at the initial or reconsideration level of the administrative review process as provided in § 416.1015(c)(1), he or she will consider the evidence in your case record and make findings of fact about the medical issues, including, but not limited to, the existence and severity of your impairment(s), the existence and severity of your symptoms, whether your impairment(s) meets or medically equals the requirements for any impairment listed in appendix 1 to subpart P of part 404 of this chapter, and your residual functional capacity. These administrative findings of fact are based on the evidence in your case but are not in themselves evidence at the level of the administrative review process at which they are made.

(ii) When a State agency disability examiner makes the initial determination alone as provided in § 416.1015(c)(3), he or she may obtain the opinion of a State agency medical or psychological consultant about one or more of the medical issues listed in paragraph (f)(1)(i) of this section. In these cases, the State agency disability examiner will consider the opinion of the State agency medical or psychological consultant as opinion evidence and weigh this evidence using the relevant factors in paragraphs (a) through (e) of this section.

(iii) When a State agency disability examiner makes a reconsideration determination alone as provided in § 416.1015(c)(3), he or she will consider findings made by a State agency medical or psychological consultant at the initial level of the administrative review process and any opinions provided by such consultants at the initial and reconsideration levels as opinion evidence and weigh this evidence using the relevant factors in paragraphs (a) through (e) of this section.

(2) * * *

(i) Administrative law judges are not bound by any findings made by State agency medical or psychological consultants, or other program physicians or psychologists. State agency medical and psychological consultants and other program physicians, psychologists, and other medical specialists are highly qualified physicians, psychologists, and other medical specialists who are also experts in Social Security disability evaluation. Therefore, administrative law judges must consider findings and other opinions of State agency medical and psychological consultants and other program physicians, psychologists, and other medical specialists as opinion evidence, except for the ultimate determination about whether you are disabled (see § 416.912(b)(8)).

(ii) When an administrative law judge considers findings of a State agency medical or psychological consultant or other program physician, psychologist, or other medical specialist, the administrative law judge will evaluate the findings using the relevant factors in paragraphs (a) through (e) of this section, such as the consultant's medical specialty and expertise in our rules, the supporting evidence in the case record, supporting explanations the medical or psychological consultant provides, and any other factors relevant to the weighing of the opinions. Unless a treating source's opinion is given controlling weight, the administrative law judge must explain in the decision the weight given to the opinions of a State agency medical or psychological consultant or other program physician, psychologist, or other medical specialist, as the administrative law judge must do for any opinions from treating sources, nontreating sources, and other nonexamining sources who do not work for us.

* * * * *

■ 15. Amend § 416.929 by removing "§§ 416.912(b)(2) through (6)" in the third sentence of paragraph (a) and adding "§§ 416.912(b)(2) through (8)" in its place, and by revising the third sentence of paragraph (b), to read as follows:

§ 416.929 How we evaluate symptoms, including pain.

* * * * *

(b) * * * In cases decided by a State agency (except in disability hearings under §§ 416.1414 through 416.1418 and in fully favorable determinations made by State agency disability examiners alone under § 416.1015(c)(3)), a State agency medical or psychological consultant or other medical or psychological consultant designated by the Commissioner (or a medical or psychological expert (as defined in § 405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) directly participates in determining whether your medically determinable impairment(s) could reasonably be expected to produce your alleged symptoms. * * *

* * * * *

■ 16. Revise § 416.946(a) to read as follows:

§ 416.946 Responsibility for assessing your residual functional capacity.

(a) *Responsibility for assessing residual functional capacity at the State agency.* When a State agency medical or psychological consultant and a State agency disability examiner make the disability determination as provided in § 416.1015(c)(1), a State agency medical or psychological consultant(s) (or a medical or psychological expert (as defined in § 405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) is responsible for assessing your residual functional capacity. When a State agency disability examiner makes a disability determination alone as provided in § 416.1015(c)(3), the disability examiner is responsible for assessing your residual functional capacity.

* * * * *

Subpart J—[Amended]

■ 17. The authority citation for subpart J of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

■ 18. Amend § 416.1002 by adding a definition of "compassionate allowance" in alphabetical order to read as follows:

§ 416.1002 Definitions.

* * * * *

Compassionate allowance means a determination or decision we make under a process that identifies for expedited handling claims that involve impairments that invariably qualify under the Listing of Impairments in appendix 1 to subpart P of part 404 of this chapter based on minimal, but sufficient, objective medical evidence.

* * * * *

■ 19. Amend § 416.1015 by revising the introductory text of paragraph (c), removing the word "or" at the end of paragraph (c)(2), redesignating paragraph (c)(3) as paragraph (c)(4), and adding a new paragraph (c)(3) to read as follows:

§ 416.1015 Making disability determinations.

* * * * *

(c) Disability determinations will be made by:

* * * * *

(3) A State agency disability examiner alone if you are not a child (a person who has not attained age 18), and the claim is adjudicated under the quick disability determination process (*see* § 416.1019) or as a compassionate allowance (*see* § 416.1002), and the initial or reconsidered determination is fully favorable to you. This paragraph will no longer be effective on November 12, 2013 unless we terminate it earlier or extend it beyond that date by publication of a final rule in the **Federal Register;** or

* * * * *

■ 20. Amend § 416.1019 by revising paragraphs (b) introductory text, (b)(1), (b)(2), and (c) to read as follows:

§ 416.1019 Quick disability determination process.

* * * * *

(b) If we refer a claim to the State agency for a quick disability determination, a designated quick disability determination examiner must do all of the following:

(1) Subject to the provisions in paragraph (c) of this section, make the disability determination after consulting with a State agency medical or psychological consultant if the State agency disability examiner determines consultation is appropriate or if consultation is required under § 416.926(c). The State agency may certify the disability determination forms to us without the signature of the medical or psychological consultant.

(2) Make the quick disability determination based only on the medical and nonmedical evidence in the file.

* * * * *

(c) If the quick disability determination examiner cannot make a determination that is fully favorable, or if there is an unresolved disagreement between the disability examiner and the medical or psychological consultant (except when a disability examiner makes the determination alone under § 416.1015(c)(3)), the State agency will adjudicate the claim using the regularly applicable procedures in this subpart.

[FR Doc. 2010–25502 Filed 10–12–10; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS–0009–N]

RIN 0938–AM50

Health Insurance Reform; Announcement of Maintenance Changes to Electronic Data Transaction Standards Adopted Under the Health Insurance Portability and Accountability Act of 1996

AGENCY: Office of the Secretary, HHS.

ACTION: Notification.

SUMMARY: This document announces maintenance changes to some of the Health Insurance Portability and Accountability Act of 1996 standards made by the Designated Standard Maintenance Organizations. The maintenance changes are non-substantive changes to correct minor errors, such as typographical errors, or to provide clarifications of the standards adopted in our regulations entitled "Health Insurance Reform; Modifications to the Health Insurance Portability and Accountability Act (HIPAA) Electronic Transaction Standards," published in the **Federal Register** on January 16, 2009. This document also instructs interested persons on how to obtain the corrections.

FOR FURTHER INFORMATION CONTACT: Denise Buenning, (410) 786–6711 Gladys Wheeler, (410) 786–0273

SUPPLEMENTARY INFORMATION:

I. Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) mandated the adoption of standards for electronically conducting certain health care administrative transactions between certain entities. Through subtitle F of title II of HIPAA, the Congress added to title XI of the Social Security Act (the Act) a new Part C, entitled "Administrative Simplification." Part C of title XI of the Act consists of sections 1171 through 1180. These sections define various terms and impose several requirements on the Department of Health & Human Services (HHS), health plans, health care clearinghouses, and certain health care providers concerning the electronic transmission of health information.

On August 17, 2000, we published a final rule in the **Federal Register** (65 FR 50312) entitled "Health Insurance Reform: Standards for Electronic Transactions" (hereinafter referred to as the Transactions and Code Sets rule). That rule implemented some of the HIPAA Administrative Simplification requirements by adopting standards developed by standard setting organizations (SSOs) for eight electronic transactions, and code sets to be used in those transactions. The SSOs are organizations that are accredited by the American National Standards Institute (ANSI), and that develop industry standards for, among others, the HIPAA transactions. We adopted standards developed by the Accredited Standards Committee X12 (hereinafter referred to as ASC X12) and the National Council for Prescription Drug Programs (NCPDP). We defined those transactions and specified the adopted standards at 45 CFR part 162, subparts I and K through R. Designated Standard Maintenance Organizations (DSMOs) receive, manage, and process requested changes to the adopted standards in accordance with the process identified in the HIPAA regulations at § 162.900. A description of the DSMO process can be found in the May 31, 2002 proposed rule (67 FR 38050). Both ASC X12 and NCPDP are DSMOs.

On August 22, 2008, we published a proposed rule in the **Federal Register** (73 FR 49742) entitled "Health Insurance Reform: Modifications to Electronic Data Transactions Standards and Code Sets" (hereinafter referred to as the Modifications proposed rule) proposing to modify the HIPAA transaction standards by adopting updated versions of the standards. On January 16, 2009, we published a final rule in the **Federal Register** (74 FR 3296) entitled Health Insurance Reform; Modifications to the Health Insurance Portability and Accountability Act (HIPAA) Electronic Transaction Standards (hereinafter referred to as the Modifications final rule), that adopted updated versions of the standards for

the electronic transactions originally adopted under HIPAA. We refer readers to the regulations cited above for a detailed discussion of the standards for electronic transactions and information about electronic data interchange, the statutory background, and the regulatory history.

In the Transactions and Code Sets rule, we defined the terms "modification" and "maintenance of standards." We explained that, when a change is substantial enough to justify publication of a new version of an implementation specification, such change is considered a modification, and must be adopted by the Secretary through regulation (65 FR 50322). Maintenance, on the other hand, describes the activities necessary to support the use of a standard, including technical corrections to an implementation specification. Maintenance changes are typically changes that are obvious to readers of the implementation guides, are not controversial, and are essential to implementation (68 FR 8388, (February 20, 2003)). We note that regulatory action is not required to make maintenance type changes to the HIPAA adopted standards (65 FR 50322).

II. Provisions of the Notification

A. ASC X12 Version 5010 HIPAA Transaction Standards

We adopted ASC X12 standards for the following eight HIPAA administrative transactions: (1) Health care claims or equivalent encounter information; (2) health care payment and remittance advice; (3) coordination of benefits; (4) eligibility for a health plan; (5) health care claim status; (6) enrollment and disenrollment in a health plan; (7) referral certification and authorization; and (8) health plan premium payments. In the January 16, 2009 Modifications final rule, we adopted the ASC X12 Technical Reports Type 3, Version 005010 (hereinafter referred to as Version 5010) to replace the currently adopted Version 4010/4010A1 standard for the eight HIPAA transactions (74 FR 3296).

1. Errata Notification

Following publication of the Modifications final rule, ASC X12 notified HHS that they were receiving feedback from the industry regarding errors that had been overlooked during ASC X12 standards review process. These errors were not identified in the comments submitted during the public comment period for the Modifications proposed rule, and therefore are not reflected in the Version 5010 standards adopted in the Modifications final rule.

After the industry reported these errors, ASC X12 compiled a summary and in February 2010 as required under the DSMO process, initiated consultations with HHS and the National Committee on Vital and Health Statistics (NCVHS), an advisory body to HHS on health data, statistics and national health information policy. (For a complete discussion of this NCVHS process, we refer readers to the August 22, 2008 proposed rule (73 FR 49742). ASC X12 then balloted and completed approval for these changes to the Version 5010 standards in accordance with the established ASC X12 approval process, in July 2010.

2. Errata Classification

ASC X12 issued errata to Version 5010 in July 2010. It has categorized the errata as both Type 1 and Type 2. These errata constitute maintenance changes under the HIPAA regulations, not modifications. The ASC X12 defines errata as: (1) Publication variances from approved X12 Committee actions (publication errors); or (2) editorial corrections such as spelling, punctuation, spelling out abbreviations or acronyms.

ASC X12 further defines Type 1 and Type 2 errata as follows:

- Type 1 Errata change the constraints of the base standard, but do not change the base standard itself. The sender and receiver must implement the Type I Errata in order to conduct a successful interchange.
- Type 2 Errata supplement a published Technical Report Type 3 (TR3) with minor changes that clarify or correct the TR3 Report. Implementation Guide constraints are not changed, and the sender and the receiver do not have to implement the errata to conduct a successful interchange.

Neither Type 1 or Type 2 Errata can change the underlying base ASC X12 transaction standard or associated internal code sets (*http://www.x12.org/newsletters/tr/index.cfm)*.

3. Errata Distribution

The errors that were identified by the industry, and ASC X12's balloted and approved response that was completed July 2010, are contained in the errata posted to the ASC X12 Web site, at *http://www.x12.org,* and are available free of charge for purchasers of Version 5010. In the interest of broad stakeholder outreach, CMS also posted a link for the ASC X12 errata to its Web site, at *http://cms.gov/ICD10*.

B. NCPDP Telecommunication Standard D.0

We adopted NCPDP standards for the following retail pharmacy drug transactions: Health care claims or equivalent encounter information; eligibility for a health plan; referral certification and authorization, coordination of benefits; and Medicaid pharmacy subrogation. In the Modifications final rule, we adopted the NCPDP Telecommunications Standard Implementation Guide, Version D, Release 0 (Version D.0) and equivalent NCPDP Batch Standard Implementation Guide, Version 1, Release 2 (Version 1.2) in place of the NCPDP Telecommunication Standard Implementation Guide, Version 5, Release 1 (Version 5.1) and equivalent NCPDP Batch Standard Implementation Guide, Version 1, Release 1 (Version 1.1), for the HIPAA retail pharmacy drug transactions.

1. Change Notification

Following publication of the Modifications final rule, NCPDP and industry stakeholders notified HHS that corrections were needed for errors in Version D.0 that had been either unintended mistakes or overlooked during the NCPDP standards review process. Those errors were not identified in the comments submitted during the public comment period for the Modifications proposed rule, and therefore are not reflected in the standards adopted in the Modifications final rule.

After the industry reported these errors, NCPDP compiled a summary of the needed corrections and their proposed remedies, and in April 2010 initiated consultations with HHS and the NCVHS. NCPDP balloted the changes and approved them, in accordance with the established NCPDP approval process, in August 2010. Each of the error corrections to Version D.0 are maintenance changes, as that term is defined under the HIPAA regulations.

2. NCPDP Change Distribution

The errors that were identified by the industry, and NCPDP's balloted and approved response that was completed in August 2010, are contained in the August 2010 publication of NCPDP Editorial Document posted to the NCPDP Web site, at *http://www.ncpdp.org*. The publication of the changes is available free of charge for purchasers of Version D.0. In the interest of broad stakeholder outreach, CMS also posted a link for the NCPDP August 2010 Editorial Document to its Web site, at *http://cms.gov/ICD10*.

It is important that HIPAA covered entities, vendors, and third party billers obtain the ASC X12 Version 5010 and the NCPDP Version D.0 error corrections and include them in their implementation of Version 5010 and Version D.0 standards. It should be noted that the HIPAA compliant versions include the error corrections. The Version 5010 and Version D.0 HIPAA compliant standards should be incorporated into systems as soon as possible. There is urgency for entities to do so quickly in light of the HHS-specified Version 5010 and Version D.0 January 1, 2011 testing date and the January 2012 implementation date. In addition, adhering to these time frames is critical for meeting the requirements to implement Version 5010 and Version D.0 prior to the October 2013 implementation date for the ICD–10 code set.

The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3 and Errata may be obtained from the ASC X12, 7600 Leesburg Pike, Suite 430, Falls Church, VA 22043; Telephone (703) 970–4480; Fax: (703) 970 4488. They also are available through the Internet at *http://www.X12.org*.

The implementation specifications and the NCPDP D.0 Editorial Document may be obtained from the National Council for Prescription Drug programs, 9240 East Raintree Drive, Scottsdale, AZ 85260; Telephone (480) 477–1000; Fax: (480) 767–1042. They are also available through the Internet at *http://www.ncpdp.org*.

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Approved: October 6, 2010.

Kathleen Sebelius,

Secretary.

[FR Doc. 2010–25684 Filed 10–8–10; 11:15 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 170

RIN 0991–AB76

Health Information Technology: Revisions to Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology

AGENCY: Office of the National Coordinator for Health Information Technology (ONC), Department of Health and Human Services.

ACTION: Interim final rule with request for comments.

SUMMARY: The Department of Health and Human Services (HHS) is issuing this interim final rule with a request for comment to remove the implementation specifications related to public health surveillance.

DATES: *Effective Date:* This interim final rule is effective October 13, 2010.

Comment Date: To be assured consideration, written or electronic comments must be received at one of the addresses provided below, no later than 5 p.m. on November 12, 2010.

ADDRESSES: Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. You may submit comments, identified by RIN 0991–AB76, by any of the following methods (please do not submit duplicate comments).

- *Federal eRulemaking Portal:* Follow the instructions for submitting comments. Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word. *http://www.regulations.gov*.
- *Regular, Express, or Overnight Mail:* Department of Health and Human Services, Office of the National Coordinator for Health Information Technology, Attention: Steven Posnack, Hubert H. Humphrey Building, Suite 729D, 200 Independence Ave., SW., Washington, DC 20201. Please submit one original and two copies.
- *Hand Delivery or Courier:* Office of the National Coordinator for Health Information Technology, Attention: Steven Posnack, Hubert H. Humphrey Building, Suite 729D, 200 Independence Ave., SW., Washington, DC 20201. Please submit one original and two copies. (Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the mail drop slots located in the main lobby of the building.)

Inspection of Public Comments: All comments received before the close of the comment period will be available for public inspection, including any personally identifiable or confidential business information that is included in a comment. Please do not include anything in your comment submission that you do not wish to share with the general public. Such information includes, but is not limited to: A person's social security number; date of birth; driver's license number; state identification number or foreign country equivalent; passport number; financial account number; credit or debit card number; any personal health information; or any business information that could be considered to be proprietary. We will post all comments received before the close of the comment period at *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or U.S. Department of Health and Human Services, Office of the National Coordinator for Health Information Technology, Hubert H. Humphrey Building, Suite 729D, 200 Independence Ave., SW., Washington, DC 20201 (call ahead to the contact listed below to arrange for inspection).

FOR FURTHER INFORMATION CONTACT: Steven Posnack, Director, Federal Policy Division, Office of Policy and Planning, Office of the National Coordinator for Health Information Technology, 202–690–7151.

SUPPLEMENTARY INFORMATION:

Acronyms

ARRA American Recovery and Reinvestment Act of 2009
CDC Centers for Disease Control and Prevention
CFR Code of Federal Regulations
EHR Electronic Health Record
HHS Department of Health and Human Services
HIT Health Information Technology
HITECH Health Information Technology for Economic and Clinical Health
HL7 Health Level Seven
NAICS North American Industry Classification System
OMB Office of Management and Budget
ONC Office of the National Coordinator for Health Information Technology
ONC–ATCB ONC-Authorized Testing and Certification Body
PHSA Public Health Service Act
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
UMRA Unfunded Mandates Reform Act of 1995

Table of Contents

I. Background
A. Legislative History
B. Regulatory History
1. Initial Set of Standards, Implementation Specifications, and Certification Criteria for EHR Technology; Interim Final Rule
2. Initial Set of Standards, Implementation Specifications, and Certification Criteria for EHR Technology; Final Rule
3. Proposed Establishment of Certification Programs for Health Information Technology; Proposed Rule
4. Temporary Certification Program; Final Rule
II. Discussion of the Interim Final Rule
A. Public Health Surveillance Implementation Specifications
B. Waiver of Proposed Rulemaking and Delay in Effective Date
III. Response to Comments
IV. Collection of Information Requirements
V. Regulatory Impact Statement
Regulation Text

I. Background

A. Legislative History

The Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111–5), was enacted on February 17, 2009. The HITECH Act amended the Public Health Service Act (PHSA) and established "Title XXX—Health Information Technology and Quality" to improve health care quality, safety, and efficiency through the promotion of health information technology (HIT) and the electronic exchange of health information. Section 3004 of the PHSA, as added by the HITECH Act, authorizes the Secretary of Health and Human Services (the Secretary) to adopt standards, implementation specifications, and certification criteria to enhance the interoperability, functionality, utility, and security of health information technology. Section 3004(b)(1) of the PHSA more specifically directs the Secretary to adopt an initial set of standards, implementation specifications, and certification criteria, and permits their adoption through an interim final rule.

B. Regulatory History

1. Initial Set of Standards, Implementation Specifications, and Certification Criteria for EHR Technology; Interim Final Rule

On January 13, 2010, HHS published in the **Federal Register** an interim final rule with a request for comment, which adopted an initial set of standards, implementation specifications, and certification criteria (75 FR 2014). The certification criteria adopted in that interim final rule established the required capabilities and specified the related standards and implementation specifications that certified electronic health record (EHR) technology would need to include to, at a minimum, support the achievement of meaningful use Stage 1 as proposed by CMS for eligible professionals and eligible hospitals under the Medicare and Medicaid EHR Incentive Programs. (For consistency with subsequent regulatory changes, hereafter, references to "eligible hospitals" shall mean "eligible hospitals and/or critical access hospitals".)

2. Initial Set of Standards, Implementation Specifications, and Certification Criteria for EHR Technology; Final Rule

On July 28, 2010, HHS published in the **Federal Register** a final rule (75 FR 44590) to complete the Secretary's adoption of the initial set of standards, implementation specifications, and certification criteria, and to more closely align such standards, implementation specifications, and certification criteria with final meaningful use Stage 1 objectives and measures (the "Standards and Certification Criteria Final Rule"). The certification criteria adopted in that final rule establish the required capabilities and specify the related standards and implementation specifications that certified EHR technology will need to include to, at a minimum, support the achievement of meaningful use Stage 1 by eligible professionals and eligible hospitals under the Medicare and Medicaid EHR Incentive Programs. Complete EHRs and EHR Modules will be tested and certified according to adopted certification criteria to ensure that they have properly implemented adopted standards and implementation specifications and otherwise comply with the adopted certification criteria.

3. Proposed Establishment of Certification Programs for Health Information Technology; Proposed Rule

On March 10, 2010, under the authority granted to the National Coordinator for Health Information Technology (the National Coordinator) by section 3001(c)(5) of the PHSA as added by the HITECH Act, HHS published in the **Federal Register** (75 FR 11328) a rule proposing the establishment of two certification programs for purposes of testing and certifying health information technology. The first proposal would establish a temporary certification program whereby the National Coordinator would authorize organizations to test and certify Complete EHRs and/or EHR Modules. The second proposal would establish a permanent certification program to replace the temporary certification program. The permanent certification program included proposals that would separate the responsibilities for performing testing and certification, introduce accreditation requirements, establish requirements for certification bodies authorized by the National Coordinator related to the surveillance of Certified EHR Technology, and would include the potential for certification bodies authorized by the National Coordinator to certify other types of health information technology besides Complete EHRs and EHR Modules.

4. Temporary Certification Program; Final Rule

On June 24, 2010, HHS published in the **Federal Register** a final rule (75 FR 36158) establishing the temporary certification program for HIT (Temporary Certification Program). The Temporary Certification Program, established under the authority granted to the National Coordinator by section 3001(c)(5) of the PHSA, sets forth the process the National Coordinator will utilize to authorize organizations (ONC-Authorized Testing and Certification Bodies (ONC–ATCBs)) to test and certify Complete EHRs and/or EHR Modules to the certification criteria adopted by the Secretary in the Standards and Certification Criteria Final Rule. Once tested and certified, a Complete EHR or a combination of EHR Modules can be adopted by an eligible professional or eligible hospital to meet the definition of Certified EHR Technology as specified at 45 CFR 170.102 and used to help qualify for incentive payments under the Medicare and Medicaid EHR Incentive Programs.

II. Discussion of the Interim Final Rule

A. Public Health Surveillance Implementation Specifications

In the Standards and Certification Criteria Final Rule, we adopted two content exchange standards for electronic submission to public health agencies for surveillance and reporting, Health Level Seven (HL7) versions 2.3.1 and 2.5.1. (45 CFR 170.205(d)) Additionally, in response to public comment on the interim final rule published January, 2010, we adopted in the Standards and Certification Criteria Final Rule the following implementation specifications for HL7 2.5.1: Public Health Information Network HL7 Version 2.5 Message

Structure Specification for National Condition Reporting Final Version 1.0 and the Errata and Clarifications National Notification Message Structural Specification. (45 CFR 170.205(d)(2)) We did not, however, adopt at that time implementation specifications for HL7 2.3.1.

Since the publication of the Standards and Certification Criteria Final Rule, various stakeholders and state public health agencies have made numerous inquiries and expressed concerns about the appropriateness of these implementation specifications. Some stakeholder representatives indicated that they thought these implementation specifications may have been adopted in error. They noted that these implementation specifications do not appear to be appropriate for implementing the adopted standard, HL7 2.5.1 for public health surveillance (syndromic surveillance) purposes.

After further review of the implementation specifications and consultation with the Centers for Disease Control and Prevention (CDC), we have determined that these implementation specifications were adopted in error. The adopted implementation specifications provide direction to public health agencies on the structure and methodology for using HL7 2.5.1 to report "Nationally Notifiable Conditions" to CDC and do not provide additional clarity for how EHR technology would need to be designed to implement the adopted standard (HL7 2.5.1) or enable compliance with the capability identified in the certification criterion adopted at 45 CFR 170.302(l). Therefore, their adoption neither provides the appropriate or requisite implementation capability for the adopted standard, HL7 2.5.1, nor, more importantly, would enable the user to "electronically record, modify, retrieve, and submit syndrome-based public health surveillance information * * *," as required by the adopted certification criterion, 45 CFR 170.302(l).

We have also heard from ONC–ATCBs as well as EHR technology developers that the erroneous adoption of these implementation specifications creates significant ambiguity and concern regarding whether these implementation specifications must be used for testing and certification. They correctly point out that because these implementation specifications are inappropriate for the adopted standard and would likely frustrate achieving the capability specified in the adopted certification criterion at 45 CFR 170.302(l), testing and certifying in accordance with them would be wasteful and unproductive. We understand further that while the erroneously adopted implementation specifications could be used to specify the structure and methodology for using HL7 2.5.1, their purpose is to facilitate the electronic exchange of de-identified Nationally Notifiable Conditions for notifiable disease reporting, which would not fulfill the fundamental requirements of syndromic surveillance. In contrast to notifiable disease reporting, where only data on patients with a notifiable disease diagnosis is sent to a public health agency, syndromic surveillance requires data from all patients that were seen in a health care setting. Moreover, syndromic surveillance requires data elements that the adopted implementation specifications do not address including: A patient's chief complaint; date/time of visit; severity of illness (*e.g.,* patient's disposition status), specific indicators (*e.g.,* pulse oximetry, measured temperature), and age.

The adoption of these implementation specifications also presents an unnecessary obstacle for EHR technology developers, who are currently faced with the dilemma of implementing HL7 2.3.1 (even though their customers may need HL7 2.5.1 to report to their state public health agency), or alternatively, HL7 2.5.1 according to the inappropriate implementation specifications, or unnecessarily to both standards, in order to seek certification. We believe that each of these alternatives places an unnecessary and unwarranted burden on EHR technology developers.

For all of these reasons, we are revising 45 CFR 170.205(d)(2) to remove these particular adopted implementation specifications. We are also removing from 45 CFR 170.302(l) the text "(and applicable implementation specifications)" to provide additional clarity and to remove the unnecessary and unwarranted burden on ONC–ATCBs and perhaps ONC–ACBs. In addition, we are removing the reference to the implementation specifications in 45 CFR 170.299(g) where it is incorporated by reference.

B. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of the rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C.553(b)). We also ordinarily provide a 30-day delay in the effective date of the provisions of a rule in accordance with section 553(d) of the APA (5 U.S.C. 553(d)). However, we can waive both the notice and comment procedure and the 30-day delay in effective date if the Secretary finds for good cause that a notice and comment procedure and a 30-day delay are impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons in the final notice or rule that is issued.

In this case, we find that notice and comment rulemaking is contrary to the public interest because it would unnecessarily delay the implementation of a complex statutory scheme and prevent the realization of certain legislative goals within the statutory timeframe. Under the HITECH Act, ONC and CMS promulgated several rules that establish a regulatory framework through which eligible professionals and eligible hospitals may seek to qualify for certain Medicare and Medicaid programs incentive payments. The Medicare and Medicaid EHR Incentive Programs final rule established the initial criteria eligible professionals and eligible hospitals must meet in order to qualify for an incentive payment, along with other program participation requirements. The HIT Standards and Certification Criteria interim final and final rules provided for the adoption of an initial set of standards, implementation, specifications, and certification criteria for electronic health record technology. In a separate final rule, ONC established a temporary certification program that allows Complete EHRs and EHR Modules to be tested and certified to the adopted certification criteria.

In this regulatory framework, private organizations are provided the opportunity to apply to the National Coordinator for authorization as an ONC-Authorized Testing and Certification Body (ONC–ATCB). Once an organization is granted ONC–ATCB status and obtains authorization from the National Coordinator to test and certify Complete EHRs and/or EHR Modules, it will be subject, depending on the scope of its authorization, to the requirements specified at 45 CFR 170.445 (Complete EHR testing and certification) and/or 45 CFR 170.450 (EHR Module testing and certification). These provisions require ONC–ATCBs to test and certify Complete EHRs and/or EHR Modules to all applicable certification criteria adopted by the Secretary at subpart C of part 170. Consequently, an ONC–ATCB's failure to adhere to the testing and certification requirements of 170.445 and/or 170.450 could subject that ONC–ATCB to adverse action by

the National Coordinator in accordance with 45 CFR 170.465 (Revocation of authorized testing and certification body status). Because ONC–ATCBs are required to test and certify Complete EHRs and/or EHR Modules in accordance with all applicable certification criteria, including 45 CFR 170.302(l), and 45 CFR 170.302(l) requires that a Complete EHR or EHR Module would need to perform the specified capabilities in accordance with, in certain scenarios, the erroneously adopted implementation specification, the Complete EHR or EHR Module certified in accordance with those provisions would not be capable of fulfilling the fundamental requirements of syndromic surveillance, as explained above. Consequently, a Complete EHR or EHR Module that was developed in accordance with HL7 Version 2.5.1 and would otherwise meet all other applicable certification criteria could not be successfully certified until the removal of the implementation specifications adopted in error. We therefore believe that if left unchanged the erroneous adoption of these implementation specifications would significantly and adversely impact the ability of ONC–ATCBs from issuing, and EHR technology developers from receiving, certifications in a timely manner.

For all of the reasons stated, we believe that a notice and comment period would be contrary to the public interest. We therefore find good cause for waiving the notice and comment period for the removal of the erroneously adopted implementation specifications.

We also believe that a 30-day delay in the effective date is contrary to the public interest for the reasons stated above and because this interim final rule with comment would alleviate an unnecessary burden on the health IT industry and impose no additional legal requirements upon the regulated community. We therefore find good cause for waiving the 30-day delay in the effective date for the removal of the relevant implementation specifications. We note, however, that we are providing the public with a 30-day period following publication of this interim final rule to submit comments.

III. Response to Comments

Because of the number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

V. Regulatory Impact Statement

We have examined the impacts of this interim final rule with comment as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993, as further amended), the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) (UMRA), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Order 12866 (as amended by Executive Orders 13258 and 13422) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This interim final rule with comment does not reach the economic threshold and, thus, is not considered a major rule. Therefore, an RIA has not been prepared.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Individuals and States are not included in the definition of a small entity. The entities impacted by this interim final rule most likely fall under the North American Industry Classification System (NAICS) code 541511 "Custom Computer Programming Services" specified at 13 CFR 121.201 where the SBA publishes "Small Business-Size Standards by NAICS Industry." The size standard associated with this NAICS code is set at $25 million in annual receipts which "indicates the maximum allowed for a concern and its affiliates to be considered small entities." We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that this interim final rule with comment imposes no new requirements on small entities and, as such, will not have a significant impact on a substantial number of small entities.

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2010, that threshold level is currently approximately $135 million. This interim final rule with comment will not impose an unfunded mandate on States, tribal government or the private sector of more than $135 million annually.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this interim final rule with comment does not impose any costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this interim final rule with comment was reviewed by the Office of Management and Budget.

List of Subjects in 45 CFR Part 170

Computer technology, Electronic health record, Electronic information system, Electronic transactions, Health, Health care, Health information technology, Health insurance, Health records, Hospitals, Incorporation by reference, Laboratories, Medicaid, Medicare, Privacy, Reporting and recordkeeping requirements, Public health, Security.

■ For the reasons set forth in the preamble, 45 CFR subtitle A, subchapter D, part 170, is amended as follows:

PART 170—HEALTH INFORMATION TECHNOLOGY STANDARDS IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA AND CERTIFICATION PROGRAMS FOR HEALTH INFORMATION TECHNOLOGY

■ 1. The authority citation for part 170 continues to read as follows:

Authority: 42 U.S.C. 300jj–11; 42 U.S.C. 300jj–14; 5 U.S.C. 552.

■ 2. Section 170.205 is amended by revising paragraph (d)(2) to read as follows:

§ 170.205 Content exchange standards and implementation specifications for exchanging electronic health information.

* * * * *

(d) * * *

(2) *Standard.* HL7 2.5.1 (incorporated by reference in § 170.299).

* * * * *

■ 3. Section 170.299 is amended by revising paragraph (g) to read as follows:

§ 170.299 Incorporation by reference.

* * * * *

(g) Centers for Disease Control and Prevention, National Centers for Immunization and Respiratory Diseases Immunization Information System Support Branch—Informatics 1600 Clifton Road Mailstop: E–62 Atlanta, GA 30333.

(1) HL7 Standard Code Set CVX—Vaccines Administered, July 30, 2009, IBR approved for § 170.207.

(2) Implementation Guide for Immunization Data Transactions using Version 2.3.1 of the Health Level Seven (HL7) Standard Protocol Implementation Guide Version 2.2, June 2006, IBR approved for § 170.205.

(3) HL7 2.5.1 Implementation Guide for Immunization Messaging Release 1.0, May 1, 2010, IBR approved for § 170.205.

(4) [Reserved]

■ 4. Section 170.302 is amended by revising paragraph (l) to read as follows:

§ 170.302 General certification criteria for Complete EHRs or EHR Modules.

* * * * *

(l) *Public health surveillance.* Electronically record, modify, retrieve, and submit syndrome-based public health surveillance information in accordance with the standard specified in § 170.205(d)(1) or § 170.205(d)(2).

* * * * *

Dated: October 6, 2010.

Kathleen Sebelius,

Secretary.

[FR Doc. 2010–25683 Filed 10–8–10; 11:15 am]

BILLING CODE 4150–45–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10–1805; MB Docket No. 10–117; RM–11601]

Radio Broadcasting Services; Grants Pass, Oregon

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Three Rivers Broadcasting LLC, allots FM Channel 257A at Grants Pass, Oregon, as the community's second commercial FM transmission service. Channel 257A can be allotted at Grants Pass, consistent with the minimum distance separation requirements of the Commission's rules, at coordinates 42–25–25 NL and 123–26–25 WL, with a site restriction of 8.7 km (5.4 miles) west of the community. *See* **SUPPLEMENTARY INFORMATION** *infra.*

DATES: Effective November 12, 2010.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 10–117, adopted September 24, 2010, and released September 27, 2010. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *http://www.bcpiweb.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (c)(4). The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Grants Pass, Channel 257A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2010–25751 Filed 10–12–10; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–XZ43

Atlantic Highly Migratory Species; Inseason Action To Close the Commercial Non-sandbar Large Coastal Shark Research Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of fishery closure.

SUMMARY: NMFS is closing the commercial shark research fishery for non-sandbar large coastal sharks (LCS). This action is necessary because landings for the 2010 fishing season have reached at least 80 percent of the available quota.

DATES: The commercial shark research fishery for non-sandbar LCS is closed effective 11:30 p.m. local time October 12, 2010 until, and if, NMFS announces, via a notice in the **Federal Register** that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Peter Cooper, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations found at 50 CFR part 635

issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), shark dealers are required to report to NMFS all sharks landed every two weeks. Dealer reports for fish received between the 1st and 15th of any month must be received by NMFS by the 25th of that month. Dealer reports for fish received between the 16th and the end of any month must be received by NMFS by the 10th of the following month. Under § 635.28(b)(2), when NMFS projects that fishing season landings for a species group have reached or are about to reach 80 percent of the available quota, NMFS will file for publication with the Office of the **Federal Register** a notice of closure for that shark species group that will be effective no fewer than 5 days from the date of filing. From the effective date and time of the closure until NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fishery for that species group is closed, even across fishing years.

On January 5, 2010 (75 FR 250), NMFS announced that the shark research fishery for the 2010 fishing year was open and the available non-sandbar LCS research fishery quota was 37.5 metric tons (mt) dressed weight (dw) (82,673 lb dw). Dealer reports through the August 31, 2010 reporting period indicate that 31.8 mt dw or 85 percent of the available shark research fishery quota for non-sandbar LCS has been landed. Dealer reports received to date indicate that 10.3 percent of the quota was landed from the opening of the fishery on January 5, 2010, through January 31, 2010; 8.7 percent of the quota was landed in February; 3 percent of the quota was landed in March; 5 percent of the quota was landed in April; 13 percent of the quota was landed in May; 6 percent of the quota was landed in June; 21.1 percent of the quota was landed in July; and 17.9 percent of the quota was landed in August. The fishery has reached 85 percent of the quota, which exceeds the 80 percent limit specified in the regulations. Accordingly, NMFS is closing the commercial non-sandbar LSC research fishery as of 11:30 p.m. local time October 12, 2010. This closure does not affect any other shark fishery.

During the closure, persons engaged in a shark research fishery trip aboard vessels issued a shark research permit under 50 CFR 635.32(f) with a NMFS-approved observer onboard, may not retain non-sandbar LCS. Vessels issued a shark research permit that are engaged in a commercial shark fishing trip outside of the shark research fishery may retain non-sandbar LCS caught in the Atlantic region, as long as the Atlantic region remains open for commercial harvest of non-sandbar LCS by Atlantic shark limited access permit holders. A shark dealer issued a permit pursuant to § 635.4 may not purchase or receive non-sandbar LCS from a vessel issued a shark research permit returning from a shark research fishery trip with a NMFS-approved observer on board. Permitted shark dealers or processors may possess non-sandbar LCS that were harvested during a shark research fishery trip, as long as the non-sandbar LCS were off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing for prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway, and any delay in this action would cause overharvest of the quota and be inconsistent with management requirements and objectives. If the quota is exceeded, the affected public is likely to experience reductions in the available quota and a lack of fishing opportunities in future seasons. For these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553 (d)(3). This action is required under § 635.28(b)(2) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 7, 2010.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–25736 Filed 10–7–10; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 75, No. 197
Wednesday, October 13, 2010

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

RIN 0551–AA65

Dairy Import Licensing Program

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would suspend the historical license reduction provisions of the Dairy Import Licensing Program, 7 CFR part 6, for a period of 5 years. This temporary suspension is intended to improve program administration and reflect ongoing changes in the markets for cheese and other dairy products subject to import licensing requirements.

DATES: Submit comments on or before November 12, 2010.

ADDRESSES: Address all comments concerning this proposed rule to Ron Lord, Branch Chief, Sugar and Dairy Branch, Import and Trade Support Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, SW., Stop 1021, Washington, DC 20250–1021; e-mail *Ronald.Lord@fas.usda.gov;* telephone (202) 720–6939; or fax (202) 720–0876. Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT: Ron Lord, Branch Chief, Sugar and Dairy Branch, Import and Trade Support Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, SW., Stop 1021, Washington, DC 20250–1021; e-mail *Ronald.Lord@fas.usda.gov;* telephone (202) 720–6939; or fax (202) 720–0876.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The proposed rule has been determined to be not significant under E.O. 12866 and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act ensures that regulatory and information requirements are tailored to the size and nature of small businesses, small organizations, and small governmental jurisdictions. This proposed rule will not have a significant economic impact on small businesses participating in the program.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988. The provisions of this proposed rule would not have a preemptive effect with respect to any State or local laws, regulations, or policies which conflict with such provision or which otherwise impede their full implementation. The proposed rule would not have a retroactive effect. Before any judicial action may be brought forward regarding this proposed rule, all administrative remedies must be exhausted.

National Environmental Policy Act

The Administrator has determined that this action will not have a significant effect on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this proposed rule.

Unfunded Mandates Reform Act (Pub. L. 104–4)

Public Law 104–4 requires consultation with state and local officials and Indian tribal governments. This proposed rule does not impose an unfunded mandate or any other requirement on state, local, or tribal governments. Accordingly, these programs are not subject to the provisions of the Unfunded Mandates Reform Act.

Executive Order 12630

This Order requires careful evaluation of governmental actions that interfere with constitutionally protected property rights. This proposed rule would not interfere with any property rights and, therefore, does not need to be evaluated on the basis of the criteria outlined in Executive Order 12630.

Government Paperwork Elimination Act

Foreign Agricultural Service (FAS) is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Background

The proposed rule at 7 CFR part 6 would revise the Dairy Tariff-Rate Import Quota Licensing regulation by suspending, for a period of 5 years, the provisions with respect to the reduction of historical licenses based on surrenders of unused amounts. Import licensing is one of the tools the U.S. Department of Agriculture (USDA) uses to administer the tariff-rate quota (TRQ) system for U.S. imports of dairy products. TRQs replaced strictly quantitative import quotas for dairy products on January 1, 1995, as a result of the Uruguay Round Agreement on Agriculture and the Uruguay Round Agreements Act. Under these TRQs, a low-tariff rate, called the in-quota rate, applies to imports up to a specified quantity. A higher tariff rate, called the over-quota rate, applies to any imports in excess of that amount. TRQ rates and quantities vary by product.

For dairy products subject to TRQs, a license issued by the FAS is generally required to import products at the in-quota rate. No license is required to import products at the over-quota rate.

Under the historical license reductions provisions, the amount of the license issued by FAS is reduced if the importer surrenders more than 50 percent of the license at least 3 out of 5 consecutive years. Section 6.25(b)(1)(i) provides that beginning with the quota year 2011, if a licensee surrenders more than 50 percent of a historical license in at least 3 out of the 5 prior years, that license will be permanently reduced to the average amount entered during those 5 years. These provisions are intended to provide a strong incentive for companies with historical licenses to utilize their licenses.

In 2008, the regulations were revised to suspend these provisions for the 2009 and 2010 quota years, thereby delaying their implementation until 2011. The following background statement was

included: "Market conditions are always subject to fluctuation and change, and it is incumbent upon all license holders to adjust to these changing conditions. Nonetheless, to allow additional time to adjust to changes in EU's supply and demand, due to its long-term dairy policy changes, the Department will temporarily suspend the historical license reduction provisions for a period of 2 years, commencing in 2009. Historical license reductions will again be implemented beginning 2011, rather than in 2012 or 2014, as in the proposed rule."

As the circumstances that prompted the previous suspension continue, an additional temporary suspension is proposed to improve program administration and reflect ongoing changes in the markets for cheese and other dairy products subject to import licensing requirements. The historical licenses provide for orderly importation of a wide variety of cheeses and permit companies to invest in market development with some assurance of future ability to provide specific types of cheese.

List of Subjects in 7 CFR Part 6

Agricultural commodities, cheese, dairy products, imports, Reporting and recordkeeping requirements.

For the reasons described in the preamble, 7 CFR part 6 is proposed to be amended as follows:

PART 6—IMPORT QUOTAS AND FEES

Subpart—Dairy Tariff—Rate Import Quota Licensing

1. The authority citation of part 6 subpart—Dairy Tariff—Rate Import Quota Licensing, continues to read as follows:

Authority: Additional U.S. Notes 6, 7, 8, 12, 14, 16–23 and 25 to Chapter 4 and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), Pub. L. 97–258, 96 Stat. 1051, as amended (31 U.S.C. 9701), and secs. 103 and 404, Pub. L. 103–465, 108 Stat. 4819 (19 U.S.C. 3513 and 3601).

2. Section 6.25 (b)(1) is revised to read as follows:

§ 6.25 Allocation of licenses.

* * * * *

(b) *Historical licenses for the 2011 and subsequent quota years (Appendix 1).* (1) A person issued a historical license for the 2010 quota year will be issued a historical license in the same amount for the same article from the same country for the 2011 quota year and for each subsequent quota year except that:

(i) Beginning with the quota year 2016, a person who has surrendered more than 50 percent of such historical license in at least three of the prior five quota years will thereafter be issued a license in an amount equal to the average annual quantity entered during those five quota years.

(ii) [Reserved]

* * * * *

Dated: October 5, 2010.

Suzanne Hale,

Administrator, Foreign Agricultural Service.

[FR Doc. 2010–25651 Filed 10–12–10; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. #AMS–NOP–10–0048; NOP–10–05]

National Organic Program: Notice of Draft Guidance for Accredited Certifying Agents and Certified Operations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of availability with request for comments.

SUMMARY: The National Organic Program (NOP) is announcing the availability of five draft guidance documents intended for use by accredited certifying agents and certified operations. The five draft guidance documents are entitled as follows: Compost and Vermicompost in Organic Crop Production (NOP 5021); Wild Crop Harvesting (NOP 5022); Outdoor Access for Organic Poultry (NOP 5024); Commingling and Contamination Prevention in Organic Production and Handling (NOP 5025); and The Use of Chlorine Materials in Organic Production and Handling (NOP 5026). These draft guidance documents are intended to inform the public of NOP's current thinking on these topics. The NOP is seeking comments on the five draft guidance documents. A notice of availability of final guidance on these topics will be issued upon their final approval. Once finalized, these guidance documents will be available from the NOP through "The Program Handbook: Guidance and Instructions for Accredited Certifying Agents (ACAs) and Certified Operations". This Handbook provides those who own, manage, or certify organic operations with guidance and instructions that can assist them in complying with the National Organic Program (NOP) regulations. The current edition of the Program Handbook is available online at *http://www.ams.usda.gov/nop* or in print upon request.

DATES: To ensure that NOP considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written comments on the draft guidance by December 13, 2010.

ADDRESSES: Submit written requests for hard copies of these draft guidance documents to Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646 So., Ag Stop 0268, Washington, DC 20250–0268. *See* the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance documents.

Interested persons may comment on these five draft guidance documents using the following procedures:

Internet: http://www.regulations.gov.

Mail: Comments may be submitted by mail to: Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646 So., Ag Stop 0268, Washington, DC 20250–0268.

Written comments responding to this request should be identified with the document number AMS–NOP–10–0048; NOP–10–05. You should clearly indicate your position and the reasons for your position. You should clearly indicate which guidance document you are commenting on, especially if you choose to comment on more than one draft guidance document. If you are suggesting changes to a draft guidance document, you should include recommended language changes, as appropriate, along with any relevant supporting documentation.

USDA intends to make available all comments, including names and addresses when provided, regardless of submission procedure used, on *http://www.regulations.gov* and at USDA—AMS, NOP, Room 2646–South building, 1400 Independence Ave., SW., Washington, DC, from 9 a.m. to noon and from 1 to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South building to view comments from the public to this notice are requested to make an appointment by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Toni Strother, Agricultural Marketing Specialist, National Organic Program (NOP), (202) 720–3252, *NOP.guidance@ams.usda.gov,* or visit

the NOP Web site at: *http://www.ams.usda.gov/nop.*

SUPPLEMENTARY INFORMATION:

I. Background

The five draft guidance documents announced through this notice were selected in response to the USDA Office of Inspector General's (OIG) March 2010 Audit Report 01601–03–Hy: Oversight of the National Organic Program. The OIG findings identified specific areas of the NOP regulations where OIG recommended guidance be issued to strengthen oversight by ACAs and improve consistency and overall administration of the NOP. The NOP specifically developed Commingling and Contamination Prevention in Organic Production and Handling (NOP 5025) and Outdoor Access for Organic Poultry (NOP 5024) draft guidance in response to the OIG report. The OIG also identified the need for the NOP to act upon recommendations issued by the National Organic Standards Board (NOSB) from 2001 to 2010. The NOP developed The Use of Chlorine Materials in Organic Production and Handling (NOP 5026) and Compost and Vermicompost in Organic Crop Production (NOP 5021) in response to outstanding NOSB recommendations. The NOP also identified a need to develop guidance to address requests by ACAs and certified operations for clarifications on particular issues. Wild Crop Harvesting (NOP 5022) is an example of guidance being issued in response to these requests.

II. Significance of Guidance

These draft guidance documents are being issued in accordance with the Office of Management and Budget (OMB) Bulletin on Agency Good Guidance Practices (GGPs) (January 25, 2007, 72 FR 3432–3440).

The purpose of GGPs is to ensure that program guidance documents are developed with adequate public participation, are readily available to the public, and are not applied as binding requirements. The draft guidance, when finalized, will represent the NOP's current thinking on these topics. It does not create or confer any rights for, or on, any person and does not operate to bind the NOP or the public. Guidance documents are intended to provide a uniform method for operations to comply that can reduce the burden of developing their own methods and simplify audits and inspections. Alternative approaches that can demonstrate compliance with the Organic Foods Production Act (OFPA), as amended (7 U.S.C. 6501–6522), and its implementing regulations are also acceptable. The NOP strongly encourages industry to discuss alternative approaches with the NOP before implementing them to avoid unnecessary or wasteful expenditures of resources and to ensure the proposed alternative approach complies with the Act and its implementing regulations.

III. Electronic Access

Persons with access to Internet may obtain the draft guidance at either NOP's Web site at *http://www.ams.usda.gov/nop* or *http://www.regulations.gov.*

Dated: October 5, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–25730 Filed 10–12–10; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 37

[NRC–2010–0194; RIN 3150–AI12]

Implementation Guidance for Physical Protection of Byproduct Material Category 1 and Category 2 Quantities of Radioactive Material; Draft Guidance Document for Comment; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On July 14, 2010, the U.S. Nuclear Regulatory Commission (NRC) noticed for public comment implementation guidance for a proposed rule to establish security requirements for the use and transport of Category 1 and Category 2 quantities of radioactive material. The public comment period for this guidance was to have expired on November 12, 2010. The NRC received several requests to extend the comment period to January 15, 2011. Due to the size and complexity of the draft implementation guidance and the associated proposed rule, the NRC has decided to extend the comment period until January 18, 2011.

DATES: The comment period has been extended and now expires on January 18, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2010–0194 in the subject line of your comments. For instructions on accessing documents related to this action, *see* "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods.

Federal Rulemaking Web Site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0194. Address questions about NRC dockets to Carol Gallagher, telephone 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax comments to: RADB at (301) 492–3446.

FOR FURTHER INFORMATION CONTACT: Merri Horn, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *telephone:* (301) 415–8126, *e-mail: Merri.Horn@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic

Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov.* The draft Part 37 implementation guidance is available electronically under ADAMS Accession Number ML101470684.

Federal Rulemaking Web site: Public comments and supporting materials related to the implementation guidance, including the draft implementation guidance, can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2010–0194. Documents related to the proposed rule can be found by searching on Docket ID NRC 2008–0120.

Discussion

The NRC published a proposed rule that would place the security requirements for use of Category 1 and Category 2 quantities of radioactive material into a new Part 37 of Title 10 of the Code of Federal Regulations. The proposed rule was published on June 15, 2010 (75 FR 33902) and the public comment period runs through October 13, 2010. The public comment period for the proposed rule is being extended to January 18, 2011, by separate notice. Documents related to the proposed rule can be found at *http://www.regulations.gov* by searching on Docket ID NRC 2008–0120.

In conjunction with the proposed rule, the NRC has developed implementation guidance. The implementation document provides guidance to a licensee or applicant for implementation of proposed 10 CFR Part 37, "Physical Protection of Byproduct Material," specifically Category 1 and Category 2 quantities of radioactive material. It is intended for use by applicants, licensees, Agreement States, and NRC staff. The document describes methods acceptable to the NRC staff for implementing proposed 10 CFR Part 37. The approaches and methods described in the document are provided for information only. Methods and solutions different from those described in the document are acceptable if they meet the requirements in proposed 10 CFR Part 37. The guidance is provided in the form of questions and answers on the provisions of the proposed rule. The draft implementation guidance document for proposed 10 CFR Part 37 is available electronically under ADAMS Accession Number ML101470684, and can also be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2010–0194.

On July 14, 2010 (75 FR 40756), the NRC noticed the availability of the implementation guidance for public comment. The public comment period for this guidance was to have expired on November 12, 2010. The NRC received several requests to extend the comment period to January 15, 2011. Due to the size and complexity of the draft implementation guidance and the associated proposed rule, the NRC has decided to extend the comment period until January 18, 2011.

Dated at Rockville, Maryland, this 29th day of September 2010.

For the Nuclear Regulatory Commission.

Mark Thaggard,

Deputy Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2010–25784 Filed 10–12–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN 3150–AI64

[NRC–2009–0163]

Physical Protection of Irradiated Reactor Fuel in Transit

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its security regulations pertaining to the transport of irradiated reactor fuel (for purposes of this rulemaking, the terms "irradiated reactor fuel" and "spent nuclear fuel" (SNF) are used interchangeably). This proposed rule would establish generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11, 2001. The proposed rule would establish the acceptable performance standards and objectives for the protection of spent nuclear fuel shipments from theft, diversion, or radiological sabotage. The proposed amendments would apply to those licensees authorized to possess or transport spent nuclear fuel. The proposed security requirements would also address, in part, a petition for rulemaking from the State of Nevada (PRM–73–10) that requests that NRC strengthen the regulations governing the security of spent nuclear fuel shipments against malevolent acts.

DATES: The comment period expires January 11, 2011. Submit comments specific to the information collection aspects of this rule by November 12, 2010. Comments received after this date will be considered if practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID: NRC–2009–0163 in the subject line of your comments. For instructions on submitting comments and accessing documents related to this action, see Section I, "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID: NRC–2009–0163. Address questions about the NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallager@nrc.gov.*

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. during Federal workdays. (Telephone 301–415–1966)

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

FOR FURTHER INFORMATION CONTACT: Cardelia Maupin, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone 301–415–2312, e-mail: *Cardelia.Maupin@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Submitting Comments and Accessing Information
II. Background
III. Discussion
A. What action is the NRC taking in this rule?
B. Why revise the requirements?
C. What is requested by the State of Nevada in its petition for rulemaking (PRM–73–10)?
D. What are the DOT routing requirements for spent nuclear fuel shipments?
E. What are the NRC routing requirements for spent nuclear fuel shipments?

F. Why do the NRC and DOT routing requirements differ for spent nuclear fuel shipments?
G. Why require procedures and training for the security of spent nuclear fuel in transit?
H. Why require a telemetric position monitoring system or an alternative tracking system for continuous monitoring of spent nuclear fuel shipments?
I. Why pre-plan and coordinate spent nuclear fuel shipments?
J. Why require constant visual surveillance by armed escort?
K. Why require two-way redundant communication capabilities?
L. Why require background investigations?
M. Why enhance shipment notifications to NRC?
N. Which type of spent nuclear fuel does DOE ship?
O. What is a non-classified shipment of spent nuclear fuel and what are the DOE requirements for this type of shipment?
P. How are the NRC and DOE requirements similar and how are they different?
Q. Who would this action affect?
R. Does NRC plan to issue guidance on these proposed requirements?
S. What should I consider as I prepare my comments to NRC?
IV. Discussion of the Proposed Amendments by Section
V. Criminal Penalties
VI. Agreement State Compatibility
VII. Plain Language
VIII. Voluntary Consensus Standards
IX. Finding of No Significant Environmental Impact: Availability
X. Paperwork Reduction Act Statement
XI. Public Protection Notification
XII. Regulatory Analysis
XIII. Regulatory Flexibility Certification
XIV. Backfit Analysis

I. Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

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NRC's Agencywide Document Access and Management System (ADAMS): Publicly available documents created or received at NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to PDR Resource.

Federal Rulemaking Web site: Public comments and supporting materials related to this proposed rule can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2009–0163.

Document	PDR	ADAMS	Web
Environmental Assessment	X	ML092710448	X
Regulatory Analysis	X	ML102710278	X
PRM–73–10	X	ML092540603	X

II. Background

A. Pre-September 11, 2001

On June 15, 1979 (44 FR 34466), NRC published an interim final rule in the **Federal Register** that established its first requirements for the physical protection of spent nuclear fuel in transit. The interim final rule added 10 CFR 73.37, "Requirements for Physical Protection of Irradiated Reactor Fuel in Transit" to 10 CFR part 73. After considering public comments, the Commission affirmed the interim final rule on June 3, 1980 (45 FR 37399).

The current § 73.37 has changed little since its promulgation in 1980. These regulations require licensees to establish a physical protection system for spent nuclear fuel shipments that meets the following objectives: (1) Minimize the possibilities for radiological sabotage of spent nuclear fuel shipments, especially within heavily populated areas, and (2) facilitate the location and recovery of spent nuclear fuel shipments that may have come under the control of unauthorized persons. The regulation also provides for: (1) The early detection and assessment of attempts to gain unauthorized access to or control over spent nuclear fuel shipments, (2) the notification to the appropriate response forces of any sabotage events, and (3) the impeding of attempts at radiological sabotage of spent nuclear fuel shipments in heavily populated areas or attempts to illicitly move such shipments into heavily populated areas.

Other NRC regulations support the protection of spent nuclear fuel in transit. The regulations in § 73.72, "Requirement for Advance Notice of Shipment of Formula Quantities of Strategic Special Nuclear Material, Special Nuclear Material of Moderate Strategic Significance, or Irradiated Reactor Fuel" require licensees to notify NRC in advance about shipments of spent nuclear fuel. The regulations in 10 CFR part 71, "Packaging and Transportation of Radioactive Material," establish requirements for packages used to transport spent nuclear fuel.

This proposed rule would consider and address, in part, a petition for rulemaking submitted by the State of Nevada. By a letter dated June 22, 1999, the State of Nevada submitted a petition for rulemaking requesting that NRC strengthen its regulations governing the security of spent nuclear fuel shipments against malevolent acts. The NRC docketed the petition on July 13, 1999, as Docket No. PRM–73–10 (PRM–73–10). The NRC published a notice of receipt of petition and a request for public comment on September 13, 1999 (64 FR 49410). The Commission review of this petition was tabled following the terrorist attacks of September 11, 2001. The petition was denied, in part, by the NRC on December 7, 2009 (74 FR 64012). This proposed rulemaking would consider and address the remaining requests for the NRC rulemaking made in PRM–73–10.

B. Post-September 11, 2001

Although the current § 73.37 has changed little since its promulgation in 1980, there have been significant changes in the threat environment. The terrorist attacks of September 11, 2001, heightened concerns about the use of risk-significant radioactive materials in a malevolent act. After the terrorist

attacks of September 11, 2001, the NRC issued a series of security-related orders to specific licensees. In the area of spent nuclear fuel transit security, the orders were issued to licensees who shipped or received, or were planning to ship or receive, spent nuclear fuel. The orders were issued as immediately effective under the NRC's authority to protect the common defense and security under the Atomic Energy Act of 1954, as amended (AEA). The requirements established by the orders supplement the existing regulatory requirements. These additional security requirements are primarily intended to ensure that spent nuclear fuel is shipped in a manner that protects the common defense and security, and the public health and safety.

C. Current Regulatory Framework

About two thousand NRC regulated shipments of spent nuclear fuel have been made throughout the United States since the 1970s. The primary objective of these shipments has been to move spent nuclear fuel to interim storage. These spent fuel shipments are generally divided into two categories: commercial shipments or DOE managed spent nuclear fuel shipments. Commercial spent nuclear fuel shipments are from the NRC-licensed facilities such as commercial nuclear power reactors, research and test reactors, and facilities for non-destructive testing and analysis of spent nuclear fuel. The DOE-managed shipments involve shipments to DOE owned interim spent nuclear fuel storage facilities.

The safe and secure shipment of spent nuclear fuel requires coordination and collaboration between various Federal, State, Tribal and local government agencies. These organizations work together to create an orderly pattern for shipments of spent nuclear fuel.

1. *What is the role of NRC in spent nuclear fuel transit?* Generally, the NRC regulates the design and construction of spent nuclear fuel shipping containers for domestic and foreign packages used to transport spent nuclear fuel solely within the United States. Although DOT is the lead government agency responsible for the approval of export and import packages, it relies on the NRC's evaluation as the basis for approval of these packages. In addition, NRC regulates the physical protection of commercial spent nuclear fuel in transit against sabotage or other malicious acts, which is recognized in the DOT routing regulations in 49 CFR 397.101. The NRC requirements in 10 CFR Part 73 are applied to shipments of spent nuclear fuel from the NRC licensees.

2. *What is the role of DOT in spent nuclear fuel transit?* The DOT regulates the transportation of hazardous materials, including spent nuclear fuel in interstate and intrastate commerce. Generally, DOT regulates in consultation with NRC the carriers of spent nuclear fuel and the conditions of transport, such as routing, handling and storage incident to transport, and vehicle and driver requirements. The DOT also regulates the labeling, classification, and marking of all spent nuclear fuel packages and transport vehicles.

3. *What is the role of DOE?* For over 50 years, DOE has transported spent nuclear fuel to interim storage facilities. These spent nuclear fuel shipments have originated from the following: (1) Foreign research reactors; (2) DOE-owned research and defense reactors, and (3) nuclear powered U.S. Navy ships. In addition, on a few rare occasions, the DOE has accepted some spent nuclear fuel from commercial nuclear power plants, e.g., Three Mile Island Unit 2, for storage at its facilities.

The DOE managed shipments of spent nuclear fuel, unless designated as a national security shipment, are conducted under requirements equivalent to those of DOT and NRC. The DOE complies with the DOT highway section criteria and carrier safety provisions. The DOE spent nuclear fuel packages are required to meet the NRC design and performance criteria in 10 CFR part 71, which is also stated in the DOT regulations in 49 CFR 173.7(d). Spent nuclear fuel shipments made by DOE or the DOE contractors are not subject to the NRC physical protection requirements because DOE is not a NRC licensee. DOE's policy, however, is that DOE managed spent nuclear fuel shipments meet or exceed NRC physical protection requirements.

4. What is the role of State, local, and Tribal governments? State, local and Tribal governments play an important role in the safe and secure transport of spent nuclear fuel. They assist in route planning and, for many shipments, provide armed escorts. They enforce the DOT highway safety regulations, including the performance of shipment inspections. State, local, and Tribal governments are also responsible for providing the first line of government response to accidents and incidents within their jurisdiction.

III. Discussion

A. What action is NRC taking in this rule?

The NRC is proposing amendments to its regulations to enhance the security requirements that apply to the transportation of spent nuclear fuel. This proposed rulemaking would establish generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11, 2001. The proposed rulemaking would also add several new requirements not derived directly from the security order requirements, but developed as a result of insights gained by performing security assessments of potential security vulnerabilities associated with spent nuclear fuel in transit. Also, the proposed rulemaking would address, in part, the requests for the NRC rulemaking raised by PRM–73–10.

The proposed requirements would establish acceptable performance objectives for the protection of spent nuclear fuel in transit from sabotage, theft, or diversion for malevolent use. These requirements would ensure that spent nuclear fuel is shipped in a manner that protects the common defense and security, and public health and safety.

B. Why revise the requirements?

After the attacks of September 11, 2001, NRC re-evaluated its security requirements for spent nuclear fuel in transit. From this effort, additional measures were identified that would improve security. The additional security measures deemed immediately necessary were issued as orders and supplemented existing regulations. The orders are not publically available, because they contain detailed security requirements that are designated as Safeguards Information (SGI). The proposed revisions are based on the NRC efforts undertaken since the events of September 11, 2001, including issuance of additional security requirements by orders, insights gained from implementation of the orders, and insights gained by performing security assessments of potential security vulnerabilities associated with spent nuclear fuel transportation. The proposed revisions also reflect portions of the State of Nevada's Petition for Rulemaking (PRM–73–10). The NRC intends to rescind the security orders provided the final rule adequately addresses the security requirements set forth in those orders. Rescission will be addressed in the notice of final rulemaking.

C. What is requested by the State of Nevada in its petition for rulemaking (PRM–73–10)?

By a letter dated June 22, 1999, the State of Nevada submitted a rulemaking

petition (docketed as PRM–73–10) requesting that NRC initiates rulemaking to strengthen its regulations for the physical protection of spent nuclear fuel shipments against radiological sabotage and terrorist acts. The NRC published a notice of receipt of petition and a request for public comment on September 13, 1999 (64 FR 49410). The Commission review of this petition was tabled following the terrorist attacks of September 11, 2001.

In PRM–73–10, Nevada requested that NRC: (1) Clarify the meaning of the term "hand-carried equipment" in 10 CFR 73.1(a)(1)(i)(D); (2) clarify the definition of the term "radiological sabotage" in 10 CFR 73.2 to include actions against spent nuclear fuel shipments which are intended to cause a loss of shielding, release of radioactive materials or cause economic damage or social disruption, regardless of the success or failure of the action; (3) amend the advance route approval requirements in 10 CFR 73.37(b)(1)(vi) to require shippers and carriers of spent nuclear fuel to identify primary and alternative routes which avoid heavily populated areas; (4) require armed escorts along the entire road shipment route by eliminating the differential based on population in 10 CFR 73.37(c); (5) require armed escorts along the entire rail shipment route by eliminating the differential based on population in 10 CFR 73.37(d); (6) amend 10 CFR 73.37(b) by adopting additional planning and scheduling requirements for spent nuclear fuel shipments that are the same as those required for formula quantities of special nuclear material by 10 CFR 73.26(b); (7) amend 10 CFR 73.37(d) to require that rail shipments of spent nuclear fuel be made in dedicated trains; and (8) conduct a comprehensive assessment of the consequences of terrorist attacks that have the capability of radiological sabotage.

In this proposed rulemaking, the NRC will consider the above items raised in PRM–73–10, except for the first and eighth items, namely, clarification of the meaning of the term "hand-carried equipment" and the conducting of a comprehensive assessment of the consequences of terrorist attacks that have the capability of radiological sabotage. Rulemaking on the first and eighth items of PRM–73–10 was denied by the NRC on December 7, 2009 (74 FR 64012). The remaining items are addressed below:

PRM–73–10, Item 2: Clarify the definition of the term "radiological sabotage" in § 73.2, "Definitions," and amend it to expressly include "deliberate actions which cause, or are intended to cause economic damage or social disruption regardless of the extent to which public health and safety are actually endangered by exposure to radiation."

The NRC considers that the existing definition already encompasses actions of the type described by the Petitioner. However, NRC agrees that clarification may be useful. The NRC is addressing this petition item by clarifying the definition of radiological sabotage in the supporting guidance document associated with the proposed rule.

PRM–73–10, Item 3: Amend the advance route approval requirements in 10 CFR 73.37(b)(7) to "specifically require shippers and carriers to identify primary and alternative routes which minimize highway and rail shipments through heavily populated areas." Also, as part of this request, PRM–73–10 stated that NRC should consider adopting the route selection criteria in NUREG–0561, *Physical Protection of Shipments of Irradiated Reactor Fuel in Transit,* as part of the regulations, and specifically require shippers and carriers to minimize use of routes which fail to comply with the route selection criteria.

The NRC considered incorporating the route selection criteria of NUREG–0561 into the proposed rule, but determined that implementing such criteria may cause conflicts with the DOT requirements. Sections D through F below provide additional information about the differences between DOT and NRC routing criteria. The PRM–73–10 request for the adoption of routing criteria from NUREG–0561 was considered by the NRC and determined to be not appropriate.

The PRM–73–10 also requested that NRC amend its regulations to minimize highway and rail shipments through heavily populated areas. The NRC is addressing the goal of minimizing spent nuclear fuel shipments through heavily populated areas in the proposed rulemaking. The proposed revisions to 10 CFR 73.37 would require licensees to preplan and coordinate their shipments with the affected States. This issue is discussed below under "Why Require Shipment Preplanning and Coordination with States?" Combining the NRC proposed requirements, which include State involvement in licensees' planning activities, with the requirements of DOT is expected to minimize movement of spent nuclear fuel through heavily populated areas.

PRM–73–10, Items 4 and 5: The current regulations, § 73.37(c) and (d), for road and rail shipments, respectively, require armed escorts in heavily populated areas, but not in other areas along the route. PRM–73–10 requested that NRC eliminate these differential armed escort requirements based upon population for both road and rail spent nuclear fuel shipments.

Proposed §§ 73.37(c) and (d) include these PRM–73–10 requests. The differentiation of security requirements based upon population causes potential areas of vulnerability along the shipment route for theft, diversion, or radiological sabotage. The proposed rule would require that the same security requirements for heavily populated areas apply along the entire route for road and rail shipments, and at any U.S. ports where vessels carrying spent fuel shipments are scheduled to stop.

PRM–73–10, Item 6: Amend § 73.37(b) by adopting additional planning and scheduling requirements for spent nuclear fuel shipments that are the same as those required for formula quantities of special nuclear material by § 73.26(b). The regulations in § 73.26(b) require that shipments be scheduled to avoid delays and stops, and to ensure timely delivery of the shipment.

The NRC agrees that improvements are needed in the planning and coordination of shipments and has addressed this concern in the proposed amendment. This issue is discussed below under "Why Require Shipment Preplanning and Coordination with States?"

PRM–73–10, Item 7: Amend § 73.37(d) to require that all spent nuclear fuel rail shipments be made in dedicated trains.

The same NRC security requirements would apply to a spent nuclear fuel rail shipment, regardless of whether the shipment was made using a dedicated train or a mixed-use train. In either case, the licensee making the shipment would be required to ensure that the security protection measures (both hardware and personnel) required by the NRC's regulations would be present to provide the requisite high assurance of protection of public health and safety and the common defense and security during the entire duration of the shipment. The NRC considers the same level of security will be obtained regardless of whether the shipment is made in a dedicated train or mixed-use train. Thus, this item is not addressed as a part of the proposed rule.

The NRC invites comments on its proposed disposition of items 2 through 7 of PRM–73–10 as part of its consideration of this proposed rule. Comments should be sent to the address listed under the **ADDRESSES** heading of this document. The PRM–73–10 is available at ADAMS Accession Number: ML092540603 and the NRC's September 13, 1999, notice of receipt of petition and request for public comments (64 FR

49410) is available on the **Federal Register**'s Web site, *http://www.gpoaccess.gov/fr/index.html.*

D. What are the DOT routing requirements for spent nuclear fuel shipments?

The DOT has various terms to define and categorize radioactive material within the Title 49 of the Code of Federal Regulations. Within their definitions, DOT includes a category for highway route controlled quantity (HRCQ) which is defined as a quantity of radioactive material within a single package that exceeds: (a) 3,000 times the A_1 value of the radionuclides for special form material or 3,000 times the A_2 values of the radionuclides for normal form material; or (b) 1,000 TBq (27,000 curies), whichever is less. The HRCQ shipments can be made by all modes of transport. Spent nuclear fuel shipments fall under the DOT's definition of HRCQ.

For shipments by road, the DOT requirements for routing radioactive material are found in 49 CFR Parts 172 (Subpart I—Safety and Security Plans) and 397 (Subpart D—Routing of Class 7 (Radioactive) Materials). The DOT highway routing requires carriers to (1) Ensure routes are chosen based on minimizing radiological risk; (2) consider available information on accident rates, transit time, population density and activities, and the time of the day and the day of the week during which transportation will occur to determine the level of radiological risk; and (3) instruct the driver about the route and the hazards of the shipment. Furthermore, under the DOT requirements, HRCQ are transported only over preferred routes (*i.e.,* the Interstate Highway System, an alternative route designated by a State routing agency, or both), or an Interstate Highway System bypass or beltway around a city when available, unless a State routing agency has designated an alternative route. Routes can only be designated after substantive consultation with affected local jurisdictions and with any other affected States to ensure consideration of all impacts and continuity of affected routes. A written route plan is to be prepared by the carrier and provided to drivers and shippers.

The DOT allows motor carriers and drivers some deviation from the preferred route when picking up or delivering material, making necessary rest, fuel or motor vehicle repair stops, or because emergency conditions make continued use of the preferred route unsafe or impossible. In addition, a person may transport irradiated reactor fuel only in compliance with a plan that will ensure the physical security of the material. The DOT permits variation for security purposes from the routing requirements of 49 CFR 397.101 only so far as necessary to meet the requirements imposed under such a plan, or otherwise imposed by NRC in 10 CFR Part 73.

For shipments by rail, the DOT requirements for routing radioactive material are found within 49 CFR parts 172, 174 and 209. The DOT requires rail carriers to compile annual data on certain shipments of hazardous materials, including HRCQ. The data is used to analyze safety and security risks along rail routes where those materials are transported; assess alternative routing options; and make routing decisions based on those assessments. Rail carriers must assess the available routes ensuring, at a minimum, that 27 specific factors are considered. These 27 factors include, but are not limited to, consideration of rail traffic density, transit times, number and types of grade crossings, proximity to iconic targets, population densities and venues along the route.

Rail carriers must also seek relevant information from State, local, and Tribal officials, as appropriate, regarding security risks to high-consequence targets along or in proximity to a route used by a rail carrier to transport security-sensitive materials. Oversight is provided by the DOT Federal Railroad Administration (FRA), which includes review and inspection of rail carrier's risk analyses and route selection, but FRA does not pre-approve rail routes. If FRA determines that a carrier's route selection documentation and underlying analyses are deficient, the carrier may be required to revise the analyses or make changes in the route selection. In addition, if it is determined by DOT that a particular route chosen by the railroad is not the safest and most secure practicable route available, FRA can require the use of an alternative route until such time as the identified deficiencies for the originally chosen route are corrected by the railroad.

E. What are the NRC routing requirements for spent nuclear fuel shipments?

For spent fuel in quantities greater than 100 grams and exceeding 1 Sv (100 rems) per hour at a distance of 0.91 meters (3 feet) from any accessible surface without intervening shielding, licensees are required to transport such spent nuclear fuel along routes that have been pre-approved by NRC. Furthermore, the proposed rule text of § 73.37(b)(1) requires licensees to preplan and coordinate their routes with the States, including identification of safe havens.

The proposed rule does not include specific routing criteria for licensees to use when developing routes. However, the objective of § 73.37 is to minimize the potential for theft, diversion, or radiological sabotage for shipments of spent nuclear fuel. Licenses are expected to develop routes by considering criteria including, but not limited to: the DOT routing criteria, minimizing transit time, likelihood of swift response by local law enforcement, availability of safe havens (for road shipments), avoidance of tactically disadvantageous positions, availability of appropriate rest and refueling stops (for road shipments), and availability of good transportation safety features. When selecting a route by road, licensees are also expected to conduct surveys of the proposed route. The objective of these surveys is to locate safe havens, evaluate communications capability along the route, develop local law enforcement contacts, identify food and fuel stops for the carrier, and identify potential driving problems along the route.

Once a spent nuclear fuel shipment route request is received, the NRC reviews it closely. The NRC conducts a detailed review, considering route length and minimizing transit time, local law enforcement and emergency response contact information, adequacy of safe haven locations, and communications capability along the route. NUREG–0561, "Physical Protection of Shipments of Irradiated Reactor Fuel" provides guidance to licensees seeking the NRC-approval of a spent nuclear fuel shipping route.

F. Why do the NRC and DOT routing requirements differ for spent nuclear fuel shipments?

The objective of § 73.37 is to minimize the potential for theft, diversion or radiological sabotage of spent nuclear fuel shipments; facilitate the location and recovery of spent fuel shipments that may have come under the control of unauthorized persons; and delay and impede attempts at theft, diversion or radiological sabotage of spent nuclear fuel shipments until response forces arrive. With this in mind, NRC expects licensees to route shipments according to the DOT requirements, and to consider the adequacy of the route to meet the objectives of § 73.37. This includes considering the availability and adequacy of safe havens along the route and the communications capabilities among the transport vehicle, escort

vehicle, communications center, and local law enforcement agencies (LLEAs) for the entire route.

The DOT HRCQ routing regulations for road shipments are based on minimizing radiological risk to the public (49 CFR 397). The HRCQ are to be transported over preferred routes which are described in more detail in question D above. Carriers are permitted to deviate from preferred routes for certain conditions including, but not limited to: security reasons (*e.g.,* as imposed by NRC in 10 CFR Part 73) and emergencies. The DOT rail routing requirements for HRCQ require carriers to consider both safety and security of the public when selecting a route (49 CFR 172 and 209). The DOT requires rail carriers to select routes based on the criteria described above in question D. Rail carriers must assess the available routes using, at a minimum, 27 factors that address both safety and security of the transport.

As long as there is coordination among the licensee, the commercial carrier and the States of passage, NRC determined that spent nuclear fuel shipment primary and alternate routes for highway and rail can be developed that satisfy both the DOT and NRC requirements and guidelines. The NRC invites comments on the challenges of selecting routes for spent nuclear fuel that meets both the DOT and NRC requirements and guidance.

G. Why require procedures and training for the security of spent nuclear fuel in transit?

The proposed §§ 73.37(b)(3)(v) and (b)(4) would expressly require that licensees shipping spent nuclear fuel develop normal and contingency procedures. These procedures would cover notifications; communication protocols; loss of communication; and responses to actual, attempted, or suspicious activities. The proposed revisions would also require drivers, accompanying personnel, railroad personnel, and other movement control personnel to be adequately trained in normal and contingency procedures. These proposed requirements would ensure that all personnel associated with the shipment are prepared to prevent the theft, diversion, or radiological sabotage of spent nuclear fuel shipments. The proposed revisions would address, in part, PRM–73–10 items (3) and (6).

H. Why require a telemetric position monitoring system or an alternative tracking system for continuous monitoring of spent nuclear fuel shipments?

The current rule, at § 73.37(b)(4), requires that the licensee's physical protection plan include a communications center, which will be staffed continuously by at least one individual who will monitor the progress of the spent fuel shipment. The proposed rule would reflect the availability of new technology and as such, the ability to have more active control over the shipment by the licensee. The proposed § 73.37(b)(3)(i) would replace the term "communications center" with the term "movement control center." The proposed § 73.37(b)(3)(ii) would also require that the movement control center be staffed continuously by at least one individual, who will actively monitor the progress of the spent nuclear fuel shipment and who has the authority to direct the physical protection activities. The proposed § 73.37(b)(3)(iii) would specify that the movement control center must monitor the shipment continuously, i.e., from the time of delivery of the shipment to the carrier for transport until safe delivery of the shipment at its final destination, and must immediately notify the appropriate agencies in the event of a safeguards event under the provisions of § 10 CFR 73.71.

In addition, the proposed §§ 73.37(c)(5) and 73.37(d)(4), for road and rail shipments respectively, would require movement control centers to use a telemetric position monitoring system or an alternative tracking system to monitor the location and status of shipments at all times, which would provide a real time indication of any potential threats. A telemetric position monitoring system is a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations. The gathering of this information permits remote monitoring and reporting of the location of a transport vehicle or package. Global positioning systems (GPS) and radiofrequency identification (RFID) are examples of telemetric position monitoring systems. Since the movement control center is required to respond to any actual, attempted, or suspicious activities, the proposed requirements would mitigate the likelihood of theft, diversion, or radiological sabotage of spent nuclear fuel shipments.

I. Why pre-plan and coordinate spent nuclear fuel shipments?

The current regulations require limited shipment preplanning and coordination with NRC, States, and LLEAs. For example, the current § 73.37(f) regulation requires an advance notification to the Governor (or designee) by mail to be postmarked at least 7 days before transport of a shipment within or through the State; and require a messenger-delivered notification to reach the Office of the Governor (or designee) at least 4 days before transport of a shipment within or through the State. Some States have indicated that the current notification requirements are insufficient to adequately plan for a spent nuclear fuel shipment. In addition, the current § 73.37(b)(7) regulation requires licensees to obtain the advance NRC approval of the routes used for road and rail shipments of spent nuclear fuel, but does not require prior State coordination of the route. The proposed amendments would ensure that the affected States have early and substantial involvement in the management of spent nuclear fuel shipments by participating in the initial stages of the planning, coordination, and implementation of the shipment.

Proposed § 73.37(b)(1)(iv) would require licensees to preplan and coordinate spent nuclear fuel shipment information with the Governors of the States which the shipment will transit across in order to: (1) Ensure minimal shipment delays; (2) arrange for State law enforcement escorts; (3) coordinate movement control information, as needed; (4) coordinate safe haven locations; and (5) coordinate the shipping route. The proposed requirements would ensure that no unusual event associated with the shipment goes unnoticed or unreported. These proposed revisions mitigate the risk of theft, diversion, or radiological sabotage of a spent nuclear fuel shipment. These proposed revisions would address, in part, PRM–73–10 items 3 and 6.

J. Why require constant visual surveillance by armed escort?

Existing § 73.37(b)(9) requires constant visual surveillance by an escort when a shipment is stopped. It does not specify whether the escort should be armed. Proposed § 73.37(b)(3)(vii)(C) would ensure that when a shipment is stopped, at least one armed escort maintains constant visual surveillance. The constant surveillance by an armed escort while a shipment is stopped provides assurance that attempts by an

adversary to either perform radiological sabotage in place, or to gain control of the transport to move it to another location are impeded or stopped. The requirements of proposed § 73.37(b)(3)(vii)(C) would address parked or stopped road shipments, rail shipment stops in marshaling areas, and docked sea shipments. It would also require periodic reports of shipment status to the movement control center by the armed escort. The proposed § 73.37(b)(3)(vii)(C) would provide adequate assurance that spent nuclear fuel shipments are protected from theft, diversion, or radiological sabotage when stopped.

K. Why require two-way redundant communication capabilities?

The regulations in the current §§ 73.37(c), 73.37(d), and 73.37(e) provide for redundant communication capabilities; however, the requirements are specific, i.e., use of citizens band radio and radiotelephone. In view of the continued advancements in technology, these methods of communication could become obsolete in the near future. Instead of specifying an acceptable communications technology, the proposed revisions describe the performance characteristics of the communications capabilities.

Proposed §§ 73.37(c)(3), 73.37(d)(3) and 73.37(e)(4) would require the establishment of two-way communication capabilities for the transport vehicle and escorts to ensure contact between the movement control center and LLEAs at all times. The revisions would also require the establishment of alternate capabilities for the transport vehicle and escorts to contact the movement control center. The alternate communications cannot be subject to the same interference factors. The same interference factors are defined as any two systems that rely on the same hardware or software to transmit their signal (e.g., cell tower, proprietary network). These requirements would provide the capability for continued communication between movement control personnel, which would ensure the prompt reporting of any incident that could lead to theft, diversion, or radiological sabotage.

L. Why require background investigations?

1. What is the objective of the background investigations requirements for those with unescorted access and access authorization relative to spent nuclear fuel in transit?

The proposed rule would add a new § 73.38 that would require licensees to conduct background investigations of those individuals being considered for unescorted access or access authorization relative to spent nuclear fuel in transit. The main objective of the background investigations is to ensure that those individuals who have unescorted access to spent nuclear fuel in transit and those individuals who have access to safeguards information relative to the spent nuclear fuel shipment, including but not limited to armed escorts, drivers, and movement control personnel are trustworthy and reliable and do not constitute an unreasonable risk to the public health and safety or common defense and security. These background investigations are similar to those already in place for unescorted access to a commercial nuclear power reactor in § 73.56(d), Background Investigation.

2. What is the basis for the fingerprinting requirements in the proposed rule?

Section 149 of AEA requires that any person who is permitted unescorted access to radioactive materials subject to regulation by the Commission be fingerprinted for FBI identification and criminal history records check. However, Section 149 also requires that the Commission make a determination that such radioactive material is of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks before the Commission can exercise the authority provided by Section 149.

Pursuant to Section 149, the Commission has determined that the transportation of irradiated fuel (spent nuclear fuel) is of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks for those individuals who have such access to the materials in transit. Persons who have "unescorted access" to this material for purposes of Section 149, are persons accompanying the shipment of spent nuclear fuel during transit who have direct access and maintain control over the spent nuclear fuel. These persons may include, but are not limited to, the driver armed escorts and movement control center personnel.

Therefore, under the authority granted by Section 149, this rule would impose a requirement for fingerprinting as a prerequisite to granting unescorted access to spent nuclear fuel in transit. The criminal history records check obtained as a result of that fingerprinting would be used by licensees as part of the overall background investigation to determine the trustworthiness and reliability of these individuals prior to permitting unescorted access.

3. What are the components of a background investigation?

Proposed § 73.38(d) lists the requirements for a background investigation, including: informed consent, fingerprinting for an FBI identification and criminal history records check; verification of true identity; employment history evaluation; verification of education and military history; credit history evaluation; local criminal history review; and character and reputation determination.

Under proposed § 73.38(e), it is the licensee's responsibility to make a trustworthiness and reliability determination of an individual who has unescorted access or access authorization relative to a spent nuclear fuel shipment. It is expected that licensees will use their best efforts to obtain the information required to conduct a background investigation to determine the individuals' trustworthiness and reliability.

The full credit history evaluation requirement, in proposed § 73.38(d)(6), reflects the NRC's intent that all financial information available through credit reporting agencies is to be obtained and evaluated because it has the potential to provide highly pertinent information. The NRC recognizes that some countries may not have routinely accepted credit reporting mechanisms, and therefore, the NRC allows multiple sources of credit history that could potentially provide information about a foreign national's financial record and responsibility.

Fingerprinting an individual for an FBI criminal history records check, as would be required by the proposed § 73.38(d)(3), is an important element of the background investigation for determining the trustworthiness and reliability of an individual. It can provide comprehensive information regarding an individual's recorded criminal activities within the U.S. and its territories and the individual's known affiliations with violent gangs or terrorist organizations. In addition, the local criminal history review, which

would be required by the proposed § 73.38(d)(7) provides the licensee with a record of local criminal activity that may adversely impact an individual's trustworthiness and reliability.

It is noted that the proposed § 73.38(d)(5)(iv) would require licensees to document any refusals by outside entities to provide information on an individual. If local law enforcement, a previous employer, an educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information in a timely manner, the licensee would be required to document the refusal, unwillingness, or inability to respond in the record of investigation. The licensee would then need to obtain confirmation from at least one alternate source that has not been previously used. An alternate source could be another person associated with the entity or institution. For example, if the human resources department of a company will not verify the employment history of the individual, an alternate source could be the individual's supervisor during the claimed period. The proposed § 73.38(d)(10) is patterned after the requirements of § 73.56(d)(4)(iv).

4. What information should the licensee use to determine that an individual is trustworthy and reliable?

The licensee would use all of the information gathered during the background investigation, including the information received from the FBI, in making a determination that an individual is trustworthy and reliable. The licensee may not determine that an individual is trustworthy and reliable and grant them unescorted access to spent nuclear fuel in transit until all of the information for the background investigation has been obtained and evaluated. The licensee may deny an individual unescorted access based on any information obtained at any time during the background investigation. The proposed § 73.38(e) includes a provision for licensees to document their determinations of trustworthiness and reliability.

5. How frequently would a reinvestigation be required?

The proposed rule would include a provision, § 73.38(h), that would require a reinvestigation every 10 years to help maintain the integrity of the program. This reinvestigation requirement is necessary because an individual's financial situation or criminal history may change over time in a manner that can adversely affect his or her trustworthiness and reliability. The reinvestigation would include fingerprinting, FBI identification and criminal history records check, local criminal history review and credit history check. The reinvestigation would not include employment verification, education verification, military history verification, or the character and reputation determination for the reinvestigation.

6. Are licensees required to protect information obtained during a background investigation?

Yes. The proposed §§ 73.38(f)(1)–(2) would require licensees to protect the information obtained during a background investigation. Licensees would only be permitted to disclose the information to the subject individual, the individual's representative, those who have a need-to-know to perform their assigned duties to grant or deny unescorted access, or an authorized representative of NRC. This proposed revision is consistent with the requirements of § 73.57(f).

7. Could a licensee transfer personal information obtained during an investigation to another licensee?

Yes. The proposed § 73.38(f)(3) includes a provision that a licensee would be able to transfer background information on an individual to another licensee if the individual makes a written request to the licensee to transfer the information contained in his or her file.

8. Which records are required to be maintained?

The proposed § 73.38(f)(5) would require licensees to retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for 5 years after the individual no longer requires unescorted access to spent nuclear fuel in transit.

M. Why enhance shipment notifications to NRC?

The current regulations in § 73.72(a)(4) require an NRC notification, by phone, at least 2 days before the shipment commences. The proposed rule would revise § 73.72(a)(4) to require 2 additional notifications of NRC, one to be made 2 hours before the shipment commences, and the other to be made when the shipment reaches its final destination. These additional notifications allow NRC to monitor spent nuclear fuel shipments, and to maximize its readiness in case of a safeguards event. The notification of shipment completion allows NRC to resume normal operations.

To further enhance notification of NRC, the proposed revision would remove the § 73.72(b) exemption for shipments of spent nuclear fuel that are transported on public roads. Currently, the requirements of § 73.72(b) exempt licensees who make a road shipment or transfer with one-way transit times of one hour or less between installations of the licensee from providing advance notification of the shipment to NRC. The proposed revision would require that NRC be informed of any spent nuclear fuel shipment on a public road so that NRC is able to monitor spent nuclear fuel shipments and to maximize its readiness in case of a safeguards event. These proposed revisions mitigate the risk of theft, diversion, or radiological sabotage of a shipment.

N. Which type of spent nuclear fuel does DOE ship?

The DOE spent nuclear fuel shipments generally fall into two categories: Classified and non-classified shipments of spent nuclear fuel. Classified shipments are those shipments which involve national security. Classified shipments of spent nuclear fuel typically consist of spent fuel from the U.S. Navy. The DOE has broad authority under the Atomic Energy Act of 1954, as amended (AEA), to regulate all aspects of activities involving radioactive materials that are undertaken by DOE or on its behalf, including the transportation of radioactive materials. The DOE conducts classified shipments of spent nuclear fuel using their Office of Secure Transport (OST). The OST shipments are escorted full-time by armed, specially trained (trained in communications, firearms, tactics, observation, and use of deadly force) active duty Navy personnel who maintain 24-hour surveillance. The OST Transportation Emergency Communications Center monitors, tracks, and provides communication with every shipment. The NRC does not regulate classified shipments of spent nuclear fuel.

O. What is a non-classified shipment of spent nuclear fuel and what are the DOE requirements for this type of shipment?

Non-classified shipments of spent nuclear fuel typically consist of spent fuel from commercial nuclear power reactors and research and test reactors. The DOE policy for non-classified spent nuclear fuel shipments are found under the DOE Orders 460.1C, *Packaging and Transportation Safety and 460.2A,*

Departmental Materials Transportation and Packaging Management. As a matter of policy, the DOE non-classified spent nuclear fuel shipments are conducted under the requirements and standards applicable to comparable commercial shipments, i.e., the NRC requirements, except if there is a determination that national security or another critical interest requires different action.

The DOE requirements are set forth in the DOE Manual 460.2–1A, *Radioactive Material Transportation Practices Manual.* In this manual, it states that "Security will be provided in compliance with the NRC requirements in 10 CFR Part 73 for shipments subject to a NRC license. Other DOE shipments will be undertaken in a manner that meets or exceeds the NRC security requirements." The DOE organizations and contractors ensure that in-transit requirements are addressed, including developing security plans, implementing information and physical security access controls, training, escorts, inspections, tracking, communications, and employee background checks.

P. How are the NRC and DOE requirements similar and how are they different?

As stated in O above, given the DOE policy to "meet or exceed" the NRC security requirements, the NRC and DOE requirements are similar. Similar to the NRC requirements, the DOE program organizations are expected to liaison with Federal, State, local and Tribal law enforcement/security officials regarding such shipments. This liaison should include a determination as to whether the State, Tribal or local jurisdictions are planning to provide escorts for the shipment. The DOE also expects drivers and escorts to maintain constant surveillance of the shipment.

One major difference between the NRC and DOE requirements deals with the tracking and monitoring of spent nuclear fuel shipments. The DOE requires the use of their Transportation Tracking and Communications System (TRANSCOM). In the proposed rule, NRC requires continuous and active monitoring of spent nuclear fuel shipments, but, a particular tracking method is not specified. The NRC determined that providing the performance objectives for continuous and active monitoring, rather than specifying a particular system gives a licensee flexibility to choose a system that works with their shipping situation.

Another difference between the NRC and DOE requirements is the protection of information. For NRC, information associated with a spent fuel shipment (i.e., shipment schedules and security plans) are protected as safeguards information (SGI) as specified by the requirements of §§ 73.21 and 73.22. The DOE does not have a system of information protection comparable to SGI. Shipment information for the DOE non-classified spent nuclear fuel shipment is official use only, unless there is a reason to designate it as classified.

Q. Who would this action affect?

The proposed amendments affect all the NRC licensees that are authorized to possess and transport spent nuclear fuel. This includes, but is not limited to, licensees of commercial power reactors, research and test reactors, and independent spent fuel storage installations, who transport, or deliver to a carrier for transport, in a single shipment, a quantity of irradiated reactor fuel in excess of 100 grams (0.22 lbs) in net weight of irradiated fuel, exclusive of cladding or other structural or packaging material, which has a total external radiation dose rate in excess of 1 Sv (100 rems) per hour at a distance of .91 meters (3 feet) from any accessible surface without intervening shielding.

R. Does NRC plan to issue guidance on these proposed requirements?

In conjunction with this the proposed rulemaking, NRC is revising NUREG–0561, "Physical Protection of Shipments of Irradiated Reactor Fuel in Transit," which was published in June 1980, to address the new requirements in the proposed rule. NUREG–0561 provides general guidance to licensees concerning the establishment of an acceptable security program for spent nuclear fuel shipments.

S. What should I consider as I prepare my comments to NRC?

Tips for preparing your comments: When submitting your comments, remember to:

i. Identify the rulemaking (Docket ID: NRC–2009–0163).

ii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iii. Describe any assumptions and provide any technical information and/or data that you used.

iv. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

v. Provide specific examples to illustrate your concerns, and suggest alternatives.

vi. Explain your views as clearly as possible.

vii. Make sure to submit your comments by the comment period deadline.

viii. See Section VII of the preamble for the request for comments on the use of plain language and Section XII for the request for comments on the draft regulatory analysis.

IV. Discussion of the Proposed Amendments by Section

A. Proposed § 73.37(a)(1)

The proposed rule would revise § 73.37(a)(1) to include the International System of Measurement (SI) accompanied by the equivalent English units in parentheses for the weight and dose rate measurements. This is under the NRC's metrication policy (57 FR 46202, October 7, 1992), and the Metric Conversion Act of 1975, 15 U.S.C. 205a *et seq.* The proposed rule would also add a footnote to clarify that the term "irradiated reactor fuel," as used in 10 CFR 73.37 fn.1, means "spent nuclear fuel."

B. Proposed § 73.37(a)(1)(i)

The language in the current regulation solely addresses potential radiological sabotage of spent nuclear fuel shipments. The proposed rule would revise § 73.37(a)(1)(i) to clarify that any attempted theft or diversion of spent nuclear fuel shipments is also covered by this regulation.

The proposed rule would also revise §§ 73.37(a)(1)(i) and (a)(2)(iii) to remove the distinction between heavily populated areas and other areas through or across which a spent nuclear fuel shipment may pass. The differentiation of security requirements based upon population densities creates potential vulnerabilities in the physical security of the shipment. The proposed requirement of armed escorts throughout the shipment route minimizes the risk of theft, diversion, or radiological sabotage. The proposed revisions would also address items 4 and 5 of the PRM–73–10.

C. Proposed § 73.37(a)(2)

The proposed rule would revise § 73.37(a)(2) to insert "system" after the word phrase "physical protection" to read as "physical protection system." This change provides consistency in the terminology used throughout 10 CFR Part 73.

The proposed revision would renumber the paragraphs in § 73.37(a)(2). The current § 73.37(a)(2)(ii) would become the proposed § 73.37(a)(2)(iii), and the current § 73.37(a)(2)(iii) would become the proposed § 73.37(a)(2)(ii). The

proposed rule would revise the current § 73.37(a)(2)(iii) to clarify that the licensee should delay, as well as impede, any attempted theft, diversion, or radiological sabotage of spent nuclear fuel shipments.

D. Proposed § 73.37(b)

This overall section is revised to provide a logical, step-by-step approach to the development of a physical protection system for spent nuclear fuel shipments that is more user-friendly.

E. Proposed § 73.37(b)(1)

The proposed rule would add a new section entitled, "*Preplan and Coordinate Spent Nuclear Fuel Shipments,*" which is explained in further detail below. The proposed rule would move and incorporate the current § 73.37(b)(1) into a new § 73.37(b)(2).

The proposed rule would add a new § 73.37(b)(1)(i) which requires that licensees instruct armed escorts on the use of deadly force. The existing provisions of § 73.37 provide performance objectives to be achieved by the physical protection system for spent nuclear fuel shipments. These performance objectives are not specific about the degree of force an armed escort may use in protecting shipments.

Specifically, the licensee is to ensure that each non-LLEA armed escort delay or impede attempted acts of theft, diversion, or radiological sabotage by using force sufficient to counter the force directed at that person, including the use of deadly force when there is a reasonable belief that the use of deadly force is necessary in self-defense or in the defense of others, or any other circumstances as authorized by applicable Federal or State law. The requirements for use of deadly force are established under applicable Federal and State laws (i.e., the States through which the shipment is passing). It should be noted that the proposed revision is not authorizing the use of deadly force, but instead is ensuring that the armed guards are knowledgeable of the Federal and State statutes that apply regarding the use of deadly force. The statutes regarding the use of deadly force may vary depending on the jurisdiction in which the shipment is located. Armed escorts are expected to carry out their assigned duties, including implementation of contingency procedures in case of attack, in a manner consistent with the legal requirements applicable to other private armed guards in a particular jurisdiction. The LLEA personnel escorts are exempt from this requirement since they are subject to, and should have received training on, State and Federal restrictions regarding the use of deadly force.

The proposed rule would add new §§ 73.37(b)(1)(ii) and 73.37(b)(1)(iii), which are accounting and control measures that ensure that only authorized individuals receive the shipment. The proposed requirements would reduce the risk of theft, diversion, or radiological sabotage of the spent nuclear fuel.

The proposed rule would re-designate § 73.37(b)(8) as § 73.37(b)(1)(iv) and revise it to include requirements for licensees to preplan and coordinate spent nuclear fuel shipments with States. The preplanning and coordination would include efforts to minimize intermediate stops and delays, arranging for State law enforcement escorts, the sharing of positional information and the development of route information, including the location of safe havens. The proposed amendments would ensure that States have early and substantial involvement in the management of spent nuclear fuel shipments by participating in the initial stages of the planning, coordination, and implementation of the shipment.

The proposed rule would re-designate § 73.37(b)(6) as § 73.37(b)(1)(v) and revise it to make minor editorial changes.

The proposed rule would re-designate § 73.37(b)(7) as § 73.37(b)(1)(vi) and revise it to expand the requirements for preplanning and coordination with NRC. The proposed § 73.37(b)(1)(vi) would require licensees to identify the locations of safe havens along road shipment routes, obtain the NRC route approval prior to the 10-day advance notice required by § 73.72(a)(2), and provide specific information to NRC, such as identification of the shipper, consignee, carriers, transfer points, modes of shipment, and a description of shipment security arrangements. In addition the proposed § 73.37(b)(1)(vi) reminds licensees that they must also comply with the applicable DOT routing requirements.

The proposed rule would add a new § 73.37(b)(1)(vii), which requires the documentation of preplanning and coordination activities.

F. Proposed § 73.37(b)(2)

The proposed rule would re-designate § 73.37(f), the advance notifications provision, as § 73.37(b)(2) and would revise it to include: (1) A reference to § 73.22 SGI protection requirements, (2) a reference to the NRC Web site listing contact information for State governors and governors' designees, (3) a requirement to include within the notification the license number of the shipper and receiver, and (4) a requirement to provide the estimated date and time of arrival of the shipment at the destination. The proposed § 73.37(b)(2) would also include new recordkeeping and shipment cancellation notification requirements.

G. Proposed § 73.37(b)(3)

The proposed rule would add a new § 73.37(b)(3) entitled, "*Transportation Physical Protection Program.*" The proposed § 73.37(b)(3) would both streamline and combine existing requirements in §§ 73.37(b)(3)–(5) and 73.37(b)(9)–(11).

Proposed § 73.37(b)(3)(i) would introduce the term "movement control center," which replaces the term "communication center" used in the current regulation. The term "movement control center" is used for consistency with physical protection terminology and to better define the role and responsibilities of the facility. The movement control center is defined as an operations center which is remote from transport activity and which maintains periodic position information on the movement of the shipment, receives reports of attempted theft, diversion, or radiological sabotage, provides a means for reporting these and other problems to appropriate agencies, and can request and coordinate appropriate aid.

The proposed rule would re-designate § 73.37(b)(4) as § 73.37(b)(3)(ii) and revise it to reflect that the movement control center personnel will have the authority to direct physical protection activities. The proposed rule would also add a new § 73.37(b)(3)(iii), which will clarify the duties of the movement control center personnel.

The proposed rule would re-designate § 73.37(b)(5) as § 73.37(b)(3)(iv) and revise it to make minor editorial changes.

The proposed rule would add a new § 73.37(b)(3)(v), which requires licensees to develop, maintain, and implement written physical protection procedures to address access controls, duties of the movement control center personnel, drivers, armed escorts and other individuals responsible for the security of the shipment, reporting of safeguards events, communications protocols, and normal conditions operating procedures.

The proposed rule would add a new § 73.37(b)(3)(vi), which incorporates the recordkeeping requirements of the current §§ 73.37(b)(2) and (3).

The proposed rule would re-designate § 73.37(b)(10) as § 73.37(b)(3)(vii)(A) and revise it to include additional training requirements described in

sections III and IV of Part 73, Appendix B. This revision is a clarification of the existing requirements in § 73.37. The current § 73.37(b)(10) refers to training requirements in 10 CFR part 73, Appendix D. Appendix D, in turn, refers to requirements in 10 CFR part 73, Appendix B, III and IV. For clarity, the proposed revision would add a direct reference to Appendix B.

The proposed rule would re-designate § 73.37(b)(11) as § 73.37(b)(3)(vii)(B) and revise it by changing the escort's requirement to contact the movement control center from "at least every 2 hours" to contacts at "random intervals, not to exceed 2 hours." The proposed provision would also change "communications center" to "movement control center."

The proposed rule would re-designate the current § 73.37(b)(9) as § 73.37(b)(3)(vii)(C) and would revise it by further clarifying the escort's responsibilities when the shipment vehicle is stopped, or the shipment vessel is docked. The proposed revisions would ensure that when a shipment is stationary at least one armed escort maintains constant visual surveillance. The proposed rule also would provide for periodic reports of shipment status to the movement control center by the armed escort.

H. Proposed § 73.37(b)(4)

The proposed rule would re-designate § 73.37(b)(2) as § 73.37(b)(4)(i)–(iii), "*Contingency and Response Procedures,*" and would add additional requirements. The proposed rule would add new §§ 73.37(b)(4)(i) and 73.37(b)(4)(ii), which would require licensees to develop and implement contingency and response procedures, and would require licensees to train personnel in these procedures. The current requirements in § 73.37(b) do not specifically require personnel training, but only require escorts to receive instructions. The proposed rule would expressly require that written procedures are developed and that all personnel associated with the transport and security of the shipment are adequately trained to carry out their responsibilities. The proposed revisions provide reasonable assurance of a more timely and effective response to any attempted theft, diversion, or radiological sabotage. A response to an event must be initiated without delay in order to have a high probability of success. The response is more likely to be timely and effective if roles, responsibilities, and actions are clearly delineated and understood in advance.

The proposed rule would also add a new § 73.37(b)(4)(iii), which would incorporate the current § 73.37(b)(2) recordkeeping requirements.

The proposed rule would re-designate § 73.37(b)(3) as § 73.37(b)(4)(iv) and revise it to include the requirement that the contingency and response procedures direct the escort to take the necessary steps to delay or impede theft, diversion, or radiological sabotage of spent nuclear fuel in transit.

I. Proposed § 73.37(c)

The proposed rule would revise § 73.37(c)(1) and delete § 73.37(c)(2) to eliminate the distinction between heavily populated areas and other areas through which a road shipment of spent nuclear fuel shipment may pass. Proposed § 73.37(c)(1) would require armed escorts for the entire shipment route. In addition, a new § 73.37(c)(1)(iii) would require non-LLEA armed escorts to have a minimum of two weapons. The NRC has determined that it is prudent to require a minimum of two weapons for each armed escort.

The proposed deletion of the current § 73.37(c)(2) would result in a renumbering of the section. The proposed rule would re-designate current § 73.37(c)(3) as § 73.37(c)(2) and revise it as described below. The requirements in the current § 73.37(c)(3) describe specific acceptable types of communication devices, i.e., use of citizens band radio, radiotelephone, which may become obsolete in the near future. Instead of specifying an acceptable communications technology, the proposed § 73.37(c)(2) revisions describe the performance characteristics of the communications capabilities.

The proposed rule would re-designate § 73.37(c)(4) as § 73.37(c)(3) and § 73.37(c)(5) as § 73.37(c)(4). The proposed rule would add a new § 73.37(c)(5), which would require continuous and active monitoring of the shipment by a telemetric position monitoring system or an alternative tracking system. The proposed revisions would ensure that shipments are continuously and actively monitored by a tracking system that communicates continuous position information to a movement control center. This requirement would allow the movement control center to receive positive confirmation of the location, status, and control of the shipment. These requirements would ensure immediate detection of any deviations from the authorized route, which will provide a prompt notification of any emergency or safeguards event. The proposed revisions would facilitate a more timely and effective response.

J. Proposed § 73.37(d)

The proposed rule would revise § 73.37(d)(1) and delete § 73.37(d)(2) to eliminate the distinction between heavily populated areas and other areas through which a rail shipment of spent nuclear fuel may pass. The proposed § 73.37(d)(1) would require armed escorts for the entire shipment route. The proposed rule would add a new § 73.37(d)(2) to require a minimum of 2 weapons for non-LLEA armed escorts. The proposed rule would revise § 73.37(d)(3), which describes acceptable types of communication devices. The NRC recognizes that these devices may become obsolete in the near future. Instead of specifying acceptable communications technology, the proposed § 73.37(d)(3) describes the performance characteristics of the communication capabilities. The proposed rule would also add a new § 73.37(d)(4) which would address continuous and active monitoring of the shipment by a telemetric position monitoring system or an alternative tracking system.

K. Proposed § 73.37(e)

The proposed rule would revise §§ 73.37(e)(1) and (e)(2) to eliminate the distinction between heavily populated areas and other areas for sea shipments of spent nuclear fuel. The proposed § 73.37(e)(1)(i) would require armed escorts at any U.S. port where vessels carrying spent nuclear fuel shipments are docked. Proposed § 73.37(e)(1)(i) would also require a minimum of two weapons for each non-LLEA escort. The proposed rule would revise § 73.37(e)(3) to eliminate the listing of communication devices. Instead of specifying acceptable communication technology, proposed § 73.37(e)(3) would describe the performance characteristics of the communication capabilities.

L. Proposed § 73.37(f)

The proposed rule would re-designate the current § 73.37(f) as § 73.37(b)(2). A newly proposed § 73.37(f) would require an immediate investigation if a shipment is lost or unaccounted for after the designated no-later-than arrival time. This proposed requirement would facilitate the location and recovery of shipments that may have come under control of unauthorized persons.

M. Proposed § 73.37(g)

The proposed rule would delete the reference to § 73.37(f)(3) and insert the reference to § 73.37(b)(2)(iii) to reflect the reorganization of § 73.37. It would also ensure that the final rule for the "Protection of Safeguards Information"

(October 24, 2008, 73 FR 63546) is reflected in the proposed rulemaking. Under § 73.22(a), information to be protected as safeguards information in the proposed § 73.37 would include: (1) Schedules, itineraries, arrangements with LLEA, and locations of safe havens, which is the information described in § 73.37(b)(1), and §§ 73.37(b)(2)(iii)–(b)(2)(v); (2) the physical security plan, which is the information described in § 73.37(b)(3); (3) the procedures for response to security contingency events, and the tactics and capabilities required to defend against attempted theft, diversion, or sabotage, which is the information described in § 73.37(b)(4); and portions of inspection reports, evaluations, audits, or investigations that contain details of a licensee's or applicant's physical security system, which is the information described in § 73.37(f). In addition, according to § 73.22(a), vehicle immobilization features, intrusion alarm devices, and communications systems, including communication limitations, are also considered safeguards information.

N. Proposed § 73.38

Proposed § 73.38 would establish the personnel access authorization requirements for granting an individual unescorted access or access authorization relative to spent nuclear fuel in transit. Proposed § 73.38(a)(1) would specify the licensees subject to the requirements in the proposed section. Proposed § 73.38(a)(2) would provide that licensees are required to establish, implement, and maintain the overall effectiveness of the access authorization program. Proposed § 73.38(b) would establish the general performance objective to ensure that the individuals subject to the access authorization program are trustworthy and reliable. Proposed § 73.38(c)(1) would specify the individuals that would be subject to the access authorization program. Proposed § 73.38(c)(2) would indicate that individuals listed in § 73.59 are not subject to the investigative elements of the access authorization program.

Proposed § 73.38(d) would establish the background investigation requirements for individuals seeking unescorted access or access authorization relative to spent nuclear fuel in transit. For an individual seeking unescorted access or access authorization relative to spent nuclear fuel in transit, proposed §§ 73.38(d)(1)–(9) would require licensees to conduct fingerprinting and an FBI identification and criminal history records check; verification of true identity; employment history evaluation, verification of education; military history verification; credit history evaluation; criminal history review; character reputation and determination; and obtain independent information, respectively. Proposed § 73.38(d)(10) would allow a licensee to rely upon an alternate source that has not been previously used, if the licensee cannot obtain information on an individual from their previous employer, educational institution, or any other entity with which the individual claims to have been engaged. Proposed § 73.38(d)(10) is patterned after § 73.56(d)(4)(iv)(B).

Proposed § 73.38(e) would require licensees to make and document trustworthiness and reliability determinations after obtaining and evaluating the information required by §§ 73.38(d)(1)–(9). Licensees would be required to maintain records of trustworthiness and reliability for 5 years from the date the individual no longer requires unescorted access or access authorization relative to spent nuclear fuel shipments.

Proposed § 73.38(f) would require licenses to protect the information obtained from background investigations, while allowing licensees to transfer background information on an individual to another licensee if the individual makes a written request for such transfer. Proposed § 73.38(f) would allow a licensee to rely on the background information transferred from another licensee, provided that the receiving licensee verifies the name, date of birth, social security number, sex, and other applicable physical characteristics to ensure that the individual is the person whose file has been transferred.

A number of individuals who would be subject to the background investigation portion of this proposed rule may have recently satisfied similar requirements under the prior NRC orders. For such individuals, it would be an unnecessary use of resources to re-fingerprint them. Thus, proposed § 73.38(g) would permit persons to essentially re-use the results of a fingerprint check that has been created within 5 years of the effective date of the rule. This would not be "relieving" such individuals from the rule, but rather permitting them to satisfy the fingerprinting requirements by other means. It is important to emphasize, however, that a licensee's ability to use previous fingerprinting results is not a substitute for the licensee independently concluding that the person is suitable for unescorted access to spent nuclear fuel in transit, including subjecting the person to all other applicable requirements of the background investigation that would be required by § 73.38(d).

Proposed § 73.38(h) would establish the requirements for reinvestigation of individuals with unescorted access to spent nuclear fuel in transit. Proposed § 73.38(h) would establish completion of reinvestigations within 10 years of the last investigation. The scope of the investigation would be the past 10 years and would consist of fingerprinting and a FBI identification and criminal history records check; criminal history review; and credit history re-evaluation. Proposed § 73.38(i) would establish the requirements for individuals to self-report legal actions taken by a law enforcement authority or court of law to which the individual has been subject that could result in incarceration or a court order or that requires a court appearance. This paragraph requires the recipient of the report, if the recipient is not the reviewing official, to promptly convey the report to the reviewing official who will then evaluate the implications of those actions with respect to the individual's trustworthiness and reliability.

Proposed § 73.38(j) would establish the requirements that licensees would be required to develop, implement, and maintain written procedures for conducting the background investigations for persons applying for unescorted access or access authorization relative to spent nuclear fuel in transit. The procedures should address notification of individuals denied unescorted access or access authorization, including the basis for the denial or termination. The procedures should also provide for the review of the information by the affected individuals. It should also ensure that individuals who have been denied unescorted access or access authorization are not allowed unescorted access to spent nuclear fuel. These individuals could be escorted by an approved individual. These individuals should not receive access to safeguards information relative to spent nuclear fuel in transit.

Proposed § 73.38(k) would establish the requirements that an individual has the right to correct his or her criminal history records before any final adverse determination is made. If the individual believes that his or her criminal history records are incorrect or incomplete in any respect, he or she can initiate challenge procedures. These procedures would include direct application by the individual challenging the criminal history records to the law enforcement agency that contributed the questioned

information. Proposed § 73.38(l) would establish the requirements that licensees retain documentation relative to the trustworthiness and reliability determination for 5 years after the individual no longer requires unescorted access or access authorization. The proposed rule would also require that corrected or new information be actively communicated by the recipient to other licensees.

O. Proposed § 73.72(a)(4)

The proposed rule would revise § 73.72(a)(4) to require 2 additional notifications of NRC, 1 to be made 2 hours before the commencement of the shipment and the other to be made when the shipment arrives at its final destination. The current requirements of § 73.72 require notification 2 days before the shipment commences, but not 2 hours before the shipment begins or when it ends.

P. Proposed § 73.72(a)(5)

The proposed rule would revise § 73.72(a)(5) to clarify the meaning of the language "greater than ±6 hours" that appears in the section. The proposed revision deletes "greater" and inserts "more," and deletes the symbol "±."

Q. Proposed § 73.72(b)

The current requirements in § 73.72(b) exempt licensees who make a road shipment or transfer with one-way transit times of one hour or less between installations of the licensee from providing advance notification of the shipment to NRC. The proposed amendment would remove this exemption from the regulations. This proposed revision would ensure that NRC is informed of any spent nuclear fuel shipment on a public road, even those of short duration, and NRC is prepared to respond to an emergency or safeguards event. It would mitigate the risk of theft, diversion, or radiological sabotage of a shipment.

TABLE 1—CROSS REFERENCE OF PROPOSED REGULATIONS WITH EXISTING REGULATIONS

The proposed regulation	Existing regulation
73.37(a)(1)	73.37(a)(1).
73.37(a)(2)	73.37(a)(2).
73.37(b)(1)(i)–(iii)	New (no existing equivalent).
73.37(b)(1)(iv)(A)	73.37(b)(8).
73.37(b)(1)(iv)(B)	New (no existing equivalent).
73.37(b)(1)(iv)(C)	New (no existing equivalent).
73.37(b)(1)(iv)(D)	New (no existing equivalent).
73.37(b)(1)(v)	73.37(b)(6).
73.37(b)(1)(vi)	73.37(b)(7).
73.37(b)(1)(vi)(A)	New (no existing equivalent).
73.37(b)(1)(vi)(B)	73.37(b)(7).
73.37(b)(1)(vi)(C)	73.37(b)(7).
73.37(b)(1)(vii)	New (no existing equivalent).
73.37(b)(2)	73.37 (b)(1) & 73.37(f).
73.37(b)(2)(i)	73.37(f)(1).
73.37(b)(2)(ii)	73.37(f)(2).
73.37(b)(2)(iii)	73.37(f)(3).
73.37(b)(2)(iv)	73.37(f)(4).
73.37(b)(2)(v)	73.37(f)(4).
73.37(b)(2)(vi)	73.70.
73.37(b)(3)(i)	New (no existing equivalent).
73.37(b)(3)(ii)	73.37(b)(4).
73.37(b)(3)(iii)	73.37(b)(4).
73.37(b)(3)(iv)	73.37(b)(5).
73.37(b)(3)(v)	New (no existing equivalent).
73.37(b)(3)(vi)	73.37(b)(3).
73.37(b)(3)(vii)(A)	73.37(b)(10).
73.37(b)(3)(vii)(B)	73.37(b)(11).
73.37(b)(3)(vii)(C)	73.37(b)(9).
73.37(b)(4)(i)	73.37(b)(2).
73.37(b)(4)(ii)	73.37(b)(2).
73.37(b)(4)(iii)	73.37(b)(2).
73.37(b)(4)(iv)	73.37(b)(3).
73.37(c)	73.37(c).
73.37(c)(1)	73.37(c)(1).
(none—paragraph deleted)	73.37(c)(2).
73.37(c)(2)	New (no existing equivalent).
73.37(c)(3)	73.37(c)(3).
73.37(c)(4)	73.37(c)(4).
73.37(c)(5)	73.37(c)(5).
73.37(c)(6)	New (no existing equivalent).
73.37(d)	73.37(d).
73.37(d)(1)	73.37(d)(1).
(none—paragraph deleted)	73.37(d)(2).
73.37(d)	73.37(d).
73.37(d)(2)	New (no existing equivalent).
73.37(d)(3)	73.37(d)(3).
73.37(d)(4)	New (no existing equivalent).
73.37(e)	73.37(4).
73.37(e)(1)	73.37(e)(1).
73.37(e)(2)	New (no existing equivalent).
73.37(e)(3)	73.37(e)(2).

TABLE 1—CROSS REFERENCE OF PROPOSED REGULATIONS WITH EXISTING REGULATIONS—Continued

The proposed regulation	Existing regulation
73.37(e)(4)	73.37(e)(3).
73.37(f)	New—incorporates 73.71 reporting provisions.
73.37(g)	73.37(g).
73.38	New—incorporates background investigations.
73.72(a)(1)	73.72(a)(1).
73.72(a)(4)(i)–(iii)	73.72(a)(4).
73.72(a)(5)	73.72(a)(5).
(none—exemption deleted from existing)	73.72(b).
73.72(b)	New (no existing equivalent—new exemption).

V. Criminal Penalties

For the purpose of Section 223 of the AEA, the NRC is proposing to amend 10 CFR Part 73 under one or more of Sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

VI. Agreement State Compatibility

Under the Policy Statement on Adequacy and Compatibility of Agreement State Programs approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as a Compatibility Category NRC. The NRC analyzed the proposed rule under the procedure established within Part III, "Categorization Process for the NRC Program Elements," of Directive Handbook 5.9, "Adequacy and Compatibility of Agreement State Programs" (a copy of which may be viewed at *http://www.nrc.gov/reading-rm/doc-collections/management-directives/*).

The NRC program elements in this category are those that relate directly to areas of regulation reserved to NRC by the AEA, or the provisions of 10 CFR. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State. The regulation of spent nuclear fuel is reserved to NRC and cannot be relinquished to an Agreement State. Thus, this rulemaking will have no impact on Agreement States' regulatory programs. Therefore, Agreement States will not need to make conforming changes to their regulations.

VII. Plain Language

The Presidential Memorandum "Plain Language in Government Writing," published June 10, 1998 (63 FR 31885), directed that the Government's documents be written in clear and accessible language. The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the **ADDRESSES** heading of this document.

VIII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. The NRC is proposing to (1) Amend § 73.37, which contains the requirements for the physical protection of spent nuclear fuel in transit; (2) add a new § 73.38, which establishes the requirements for a background investigation of individuals applying for unescorted access to spent nuclear fuel shipments; and (3) amend § 73.72, which contains the requirements for the advance notification of NRC of spent nuclear fuel along with other special nuclear material. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

IX. Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in subpart A of 10 CFR part 51, NRC has determined that this proposed rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required for this rulemaking. The NRC has prepared an environmental assessment and, on the basis of this environmental assessment, has made a finding of no significant impact.

The implementation of the proposed rule's security requirements would not result in significant changes to the licensees' facilities, nor would such implementation result in any significant increase in effluents released to the environment. Similarly, the implementation of the proposed rule's security requirements would not affect occupational exposure requirements. No major construction or other earth disturbing activities, on the part of affected licensees, is anticipated in connection with licensees' implementation of the proposed rule's requirements. The NRC has determined that the implementation of this proposed rule would be procedural and administrative in nature.

The determination of this environmental assessment is that there will be no significant impact to the public from this action. However, the general public should note that NRC welcomes public participation. Comments on any aspect of the environmental assessment may be submitted to NRC as indicated under the **ADDRESSES** heading in this document.

The NRC will send a copy of the environmental assessment and this proposed rule to every State Liaison Officer, and will request their comments on the environmental assessment. The environmental assessment may be examined at the NRC Public Document Room, O–1 F21, 11555 Rockville Pike, Rockville, MD 20852.

X. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

Type of submission, new or revision: Revision.

The title of the information collection: 10 CFR part 73, "Physical Protection of Plants and Materials," The Proposed Rule.

The form number if applicable: NA.

How often the collection is required: On occasion.

Who will be required or asked to report: NRC licensees that are

authorized to possess and transport spent nuclear fuel in excess of 100 grams (0.22 lbs) in net weight exclusive of cladding or other material, which has a total radiation level in excess of 1 Sv (100 rems) per hour at a distance of .91 meters (3 feet) from any accessible surface without regard to any intervening shielding.

An estimate of the number of annual responses: 360 (342 responses + 18 recordkeepers).

The estimated number of annual respondents: 18.

An estimate of the total number of hours needed annually to complete the requirement or request: 1,058 (59 hrs per respondent).

Abstract: The NRC is proposing to amend its regulations to enhance the requirements for the safety and security of spent nuclear fuel during transit and to make these applicable to all licensees by placing them in the 10 CFR. The proposed rulemaking would establish the minimum performance standards and objectives for the protection of spent nuclear fuel shipments from theft, diversion or radiological sabotage. The proposed amendments would affect licensees authorized to possess or transport spent nuclear fuel.

The NRC is seeking public comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The OMB clearance package and the proposed rule are available for 60 days after the signature date of this notice at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*.

Send comments on any aspect of these proposed regulations related to information collections, including suggestions for reducing the burden and on the above issues, by November 12, 2010 to the Records and FOIA/Privacy Services Branch (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *Infocollects.Resource@NRC.gov* and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (RIN–3150–AI64), Office of Management and Budget, Washington, DC 20503. Comments on the proposed information collections may also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov,* Document ID: NRC–2009–0163. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

XI. Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XII. Regulatory Analysis

The NRC has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the NRC.

The NRC requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to NRC as indicated under the **ADDRESSES** heading. The analysis is available for inspection in the NRC Public Document Room, 11555 Rockville Pike, Room 0–1 F21, Rockville, MD 20852.

XIII. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The companies that possess or transport spent nuclear fuel do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the size standards established by NRC (10 CFR 2.810).

XIV. Backfit Analysis

The NRC has determined that the backfit rule (§§ 50.109, 70.76, 72.62, or 76.76) does not apply to this proposed rule because this amendment would not involve any provisions that would impose backfits as defined in 10 CFR Chapter I. Therefore, a backfit analysis is not required.

List of Subjects in 10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC proposes to adopt the following amendments to 10 CFR part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 53, 161, 149, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2169, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. §§ 5841, 5844, 2297f); sec. 1704, 112 Stat. 2750 (44 U.S.C. § 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

2. Section 73.37 is revised to read as follows:

§ 73.37 Requirements for physical protection of irradiated reactor fuel in transit.

(a) *Performance objectives.* (1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a quantity of irradiated reactor fuel [1] in excess of 100 grams (0.22 lbs) in net weight of irradiated fuel, exclusive of cladding or other structural or packaging material, which has a total external radiation dose rate in excess of 1 Sv (100 rems) per hour at a distance of .91 meters (3 feet) from any accessible surface without intervening shielding, shall establish and maintain, or make arrangements for, and assure the proper implementation of, a physical protection system for shipments of such material that will achieve the following objectives:

(i) Minimize the potential for theft, diversion, or radiological sabotage of spent nuclear fuel shipments; and

(ii) Facilitate the location and recovery of spent fuel shipments that may have come under the control of unauthorized persons.

[1] For purposes of 10 CFR 73.37, the terms "irradiated reactor fuel" and "spent nuclear fuel" are used interchangeably.

(2) To achieve these objectives, the physical protection system shall:

(i) Provide for early detection and assessment of attempts to gain unauthorized access to, or control over, spent fuel shipments;

(ii) Delay and impede attempts at theft, diversion, or radiological sabotage of spent nuclear fuel shipments until response forces arrive; and

(iii) Provide for notification to the appropriate response forces of any attempts at theft, diversion, or radiological sabotage of a spent nuclear fuel shipment.

(b) *General requirements.* To achieve the performance objectives of paragraph (a) of this section, a physical protection system established and maintained, or arranged for, by the licensee shall include the following elements:

(1) *Preplan and Coordinate Spent Nuclear Fuel Shipments.* Each licensee shall:

(i) Ensure that each armed escort is instructed on the use of force sufficient to counter the force directed at the person, including the use of deadly force when the armed escort has a reasonable belief that the use of deadly force is necessary in self-defense or in the defense of others, or any other circumstances, as authorized by applicable Federal and State laws. This requirement does not apply to members of local law enforcement agencies performing escort duties.

(ii) Preplan and coordinate shipment itineraries to ensure that the receiver at the final delivery point is present to accept the shipment.

(iii) Ensure written certification of any transfer of custody.

(iv) Preplan and coordinate shipment information with the governor of a State, or the governor's designee, of a shipment of spent nuclear material through or across the boundary of the State, in order to:

(A) Minimize intermediate stops and delays;

(B) Arrange for State law enforcement escorts;

(C) Arrange for positional information sharing when requested; and

(D) Develop route information, including the identification of safe havens.

(v) Arrange with local law enforcement authorities along the shipment route, including U.S. ports where vessels carrying spent nuclear fuel shipments are docked, for their response to an emergency or a call for assistance.

(vi) Preplan and coordinate with NRC to obtain advance approval of the routes used for road and rail shipments of spent nuclear fuel, and of any U.S. ports where vessels carrying spent nuclear fuel shipments are scheduled to stop. In addition to the requirements of this section, routes used for shipping spent nuclear fuel shall comply with the applicable requirements of the DOT regulations in 49 CFR in particular those identified in § 71.5. The advance approval application shall provide:

(A) For road shipments, the route should include locations of safe havens that have been coordinated with the appropriate State(s).

(B) The NRC approval shall be obtained prior to the 10-day advance notification requirement in § 73.72 of this part.

(C) Information to be supplied to NRC shall include, but is not limited to, the following:

(1) Shipper, consignee, carriers, transfer points, modes of shipment; and

(2) A statement of shipment security arrangements, including, if applicable, points where armed escorts transfer responsibility for the shipment.

(vii) Document the preplanning and coordination activities.

(2) *Advance Notifications.* Prior to the shipment of spent nuclear fuel outside the confines of the licensee's facility or other place of use or storage, a licensee subject to this section shall provide notification to NRC, under § 73.72 of this part, and the governor of the State, or the governor's designee, of the spent nuclear fuel shipment. Contact information for each State, including telephone and mailing addresses of governors and governors' designees, is available on the NRC Web site at: *http://nrc-stp.ornl.gov/special/designee.pdf.* A list of the contact information is also available upon request from the Director, Division of Intergovernmental Liaison and Rulemaking, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The licensee shall comply with the following criteria in regard to each notification:

(i) *Procedures for submitting advance notification.* (A) The notification must be in writing and sent to the office of each appropriate governor or the governor's designee.

(B) A notification delivered by mail must be postmarked at least 7 days before transport of a shipment within or through the State.

(C) A notification delivered by any other method must reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the State.

(ii) *Information to be furnished in advance notification of shipment.* The notification must include the following information:

(A) The name, address, and telephone number of the shipper, carrier and receiver of the shipment and the license number of the shipper and receiver;

(B) A description of the shipment as specified by DOT in 49 CFR 172.202 and 172.203(d); and

(C) A listing of the routes to be used within the State.

(iii) *Separate Enclosure.* The licensee shall provide the following information, under § 73.22(f)(1), in a separate enclosure to the written notification:

(A) The estimated date and time of departure from the point of origin of the shipment;

(B) The estimated date and time of entry into the State;

(C) The estimated date and time of arrival of the shipment at the destination;

(D) For the case of a single shipment whose schedule is not related to the schedule of any subsequent shipment, a statement that schedule information must be protected under the provisions of §§ 73.21 and 73.22 until at least 10 days after the shipment has entered or originated within the State; and

(E) For the case of a shipment in a series of shipments whose schedules are related, a statement that schedule information must be protected under the provisions of §§ 73.21 and 73.22 until 10 days after the last shipment in the series has entered or originated within the State, and an estimate of the date on which the last shipment in the series will enter or originate within the State.

(iv) *Revision notice.* A licensee shall notify by telephone a responsible individual in the office of the governor or in the office of the governor's designee of any schedule change that differs by more than 6 hours from the schedule information previously furnished under § 73.37(b)(2)(iii), and shall inform that individual of the number of hours of advance or delay relative to the written schedule information previously furnished.

(v) *Cancellation notice.* Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor or to the governor's designee of each State previously notified and to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being canceled.

(vi) *Records.* The licensee shall retain a copy of the preplanning and coordination activities, advance notification, and any revision or cancellation notice as a record for 3 years under § 73.70.

(3) *Transportation Physical Protection System.* (i) The physical protection system established under § 73.37(a)(1) shall include armed escorts to protect spent nuclear fuel shipments and a movement control center staffed and equipped to monitor and control spent nuclear fuel shipments, to communicate with local law enforcement authorities, and to respond to safeguards contingencies.

(ii) The movement control center must be staffed continuously by at least one individual who will actively monitor the progress of the spent nuclear fuel shipment and who has the authority to direct the physical protection activities.

(iii) The movement control center personnel must monitor the shipment continuously, *i.e.,* 24-hours per day, from the time the shipment commences, or if delivered to a carrier for transport, from the time of delivery of the shipment to the carrier, until safe delivery of the shipment at its final destination, and must immediately notify the appropriate agencies in the event of a safeguards event under the provisions of § 73.71.

(iv) The movement control center personnel and the armed escorts must maintain a written log for each spent nuclear fuel shipment, which will include information describing the shipment and significant events that occur during the shipment. The log must be available for review by authorized NRC personnel for a period of at least 3 years following completion of the shipment.

(v) The licensee shall develop, maintain, revise and implement written transportation physical protection procedures which address the following:

(A) Access controls to ensure no unauthorized persons have access to the shipment and safeguards information;

(B) Duties of the movement control center personnel, drivers, armed escorts and other individuals responsible for the security of the shipment;

(C) Reporting of safeguards events under § 73.71;

(D) Communications protocols that include a strategy for the use of authentication and duress codes, the management of refueling or other stops, detours, and the loss of communications, temporarily or otherwise; and

(E) Normal conditions operating procedures.

(vi) The licensee shall retain as a record the transportation physical protection procedures for 3 years after the close of period for which the licensee possesses the spent nuclear fuel.

(vii) The transportation physical protection system shall:

(A) Provide that escorts (other than members of local law enforcement agencies, or ship's officers serving as unarmed escorts) have successfully completed the training required by Appendix D of this part, including the equivalent of the weapons training and qualifications program required of guards, as described in sections III and IV of Appendix B of this part, to assure that each such individual is fully qualified to use the assigned weapons;

(B) Provide that shipment escorts make calls to the movement control center at random intervals, not to exceed 2 hours, to advise of the status of the shipment for road and rail shipments, and for sea shipments while shipment vessels are docked at U.S. ports; and

(C) Provide that at least one armed escort remains alert at all times, maintains constant visual surveillance of the shipment, and periodically reports to the movement control center at regular intervals not to exceed 30 minutes during periods when the shipment vehicle is stopped, or the shipment vessel is docked.

(4) *Contingency and Response Procedures.* (i) In addition to the procedures established under paragraph (b)(3)(v) of this section, the licensee shall establish, maintain, and follow written contingency and response procedures to address threats, thefts, and radiological sabotage related to spent nuclear fuel in transit.

(ii) The licensee shall ensure that personnel associated with the shipment shall be appropriately trained regarding contingency and response procedures.

(iii) The licensee shall retain the contingency and response procedures as a record for 3 years after the close of period for which the licensee possesses the spent nuclear fuel.

(iv) The contingency and response procedures must direct that, upon detection of the abnormal presence of unauthorized persons, vehicles, or vessels in the vicinity of a spent nuclear fuel shipment or upon detection of a deliberately induced situation that has the potential for damaging a spent nuclear fuel shipment, the armed escort will:

(A) Determine whether or not a threat exists;

(B) Assess the extent of the threat, if any;

(C) Implement the procedures developed under paragraph (b)(4)(i) of this section;

(D) Take the necessary steps to delay or impede threats, thefts, or radiological sabotage of spent nuclear fuel, and

(E) Inform local law enforcement agencies of the threat and request assistance without delay, but not to exceed 15 minutes after discovery.

(c) *Shipments by road.* In addition to the provisions of paragraph (b) of this section, the physical protection system for any portion of a spent nuclear fuel shipment by road shall provide that:

(1) The transport vehicle is:

(i) Occupied by at least 2 individuals, 1 of whom serves as an armed escort, and escorted by an armed member of the local law enforcement agency in a mobile unit of such agency; or

(ii) Led by a separate vehicle occupied by at least 1 armed escort, and trailed by a third vehicle occupied by at least 1 armed escort.

(2) As permitted by law, all armed escorts are equipped with a minimum of 2 weapons. This requirement does not apply to local law enforcement agency personnel who are performing escort duties.

(3) The transport vehicle and each escort vehicle are equipped with redundant communication abilities that provide for 2-way communications between the transport vehicle, the escort vehicle(s), the movement control center, local law enforcement agencies, and one another at all times. Alternate communications should not be subject to the same failure modes as the primary communication.

(4) The transport vehicle is equipped with the NRC-approved features that permit immobilization of the cab or cargo-carrying portion of the vehicle.

(5) The transport vehicle driver has been familiarized with, and is capable of implementing, transport vehicle immobilization, communications, and other security procedures.

(6) Shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center shall provide positive confirmation of the location, status, and control over the shipment. The movement control center shall implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, diversion, or radiological sabotage of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate local law enforcement agency along the shipment route.

(d) *Shipments by rail.* In addition to the provisions of paragraph (b) of this section, the physical protection system for any portion of a spent nuclear fuel shipment by rail shall provide that:

(1) A shipment car is accompanied by 2 armed escorts (who may be members of a local law enforcement agency), at least 1 of whom is stationed at a location on the train that will permit observation of the shipment car while in motion.

(2) As permitted by law, all armed escorts are equipped with a minimum of 2 weapons. This requirement does not apply to local law enforcement agency personnel who are performing escort duties.

(3) The train operator(s) and each escort are equipped with redundant communication abilities that provide for 2-way communications between the transport, the escort vehicle(s), the movement control center, local law enforcement agencies, and one another at all times. Alternate communications should not be subject to the same failure modes as the primary communication.

(4) Rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad movement control center. The movement control center shall provide positive confirmation of the location of the shipment and its status. The movement control center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft, diversion, or radiological sabotage of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate local law enforcement agency along the shipment route.

(e) *Shipments by sea.* In addition to the provisions of paragraph (b) of this section, the physical protection system for any portion of a spent nuclear fuel shipment that is by sea shall provide that:

(1) A shipment vessel, while docked at a U.S. port is protected by:

(i) Two armed escorts stationed on board the shipment vessel, or stationed on the dock at a location that will permit observation of the shipment vessel; or

(ii) A member of a local law enforcement agency, equipped with normal local law enforcement agency radio communications, who is stationed on board the shipment vessel, or on the dock at a location that will permit observation of the shipment vessel.

(2) As permitted by law, all armed escorts are equipped with a minimum of 2 weapons. This requirement does not apply to local law enforcement agency personnel who are performing escort duties.

(3) A shipment vessel while within U.S. territorial waters shall be accompanied by an individual, who may be an officer of the shipment vessel's crew, who will assure that the shipment is unloaded only as authorized by the licensee.

(4) Each armed escort is equipped with redundant communication abilities that provide for 2-way communications between the vessel, the movement control center, local law enforcement agencies, and one another at all times. Alternate communications should not be subject to the same failure modes as the primary communication.

(f) *Investigations.* Each licensee who makes arrangements for the shipment of spent nuclear fuel shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that is lost or unaccounted for after the designated no-later-than arrival time in the advance notification.

(g) State officials, State employees, and other individuals, whether or not licensees of the Commission, who receive information of the kind specified in paragraph (b)(2)(iii) of this section and any other safeguards information as defined in § 73.22(a) shall protect that information against unauthorized disclosure as specified in §§ 73.21 and 73.22 of this part.

3. Add § 73.38 to read as follows:

§ 73.38 Personnel access authorization requirements for irradiated reactor fuel in transit.

(a) *General.* (1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a quantity of spent nuclear fuel as described in § 73.37 (a)(1) shall comply with the requirements of this section, as appropriate, before any spent nuclear fuel is transported or delivered to a carrier for transport.

(2) Each licensee shall establish, implement, and maintain its access authorization program under the requirements of this section.

(i) Each licensee shall be responsible for the continuing effectiveness of the access authorization program.

(ii) Each licensee shall ensure that the access authorization program is reviewed at an appropriate frequency to confirm compliance with the requirements of this section and that comprehensive actions are taken to correct any noncompliance that is identified.

(iii) The review shall evaluate all program performance objectives and requirements.

(iv) Each review report must document conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and when appropriate, recommended corrective actions, and corrective actions taken. The licensee shall review the audit findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

(3) By (30 days after date the final rule is published in the **Federal Register**), each licensee that is subject to this provision on (effective date of final rule) shall implement the requirements of this section through revisions to its physical security plan.

(b) *General performance objective.* The licensee's access authorization program must ensure that the individuals specified in paragraph (c) of this section are trustworthy and reliable such that they do not constitute an unreasonable risk to public health and safety or the common defense and security.

(c) *Applicability.* (1) Licensees shall subject the following individuals to an access authorization program:

(i) Any individual to whom a licensee intends to grant unescorted access to spent nuclear fuel in transit, including employees of a contractor or vendor;

(ii) Any individual whose duties and responsibilities permit the individual to take actions by physical or electronic means that could adversely impact the safety, security, or emergency response to spent nuclear fuel in transit (*i.e.,* movement control personnel, vehicle drivers, or other individuals accompanying spent nuclear fuel shipments)

(iii) Any individual whose duties and responsibilities include implementing a licensee's physical protection program under § 73.37, including but not limited to, non-LLEA armed escorts;

(iv) Any individual whose assigned duties and responsibilities provide access to spent nuclear fuel shipment information that is considered to be Safeguards Information under § 73.22(a)(2); and

(v) The licensee access authorization program reviewing official.

(2) Persons identified in § 73.59 are not subject to the investigative elements of the access authorization program.

(d) *Background Investigation.* Before allowing an individual to have unescorted access or access

authorization relative to spent nuclear fuel [2] in transit the licensees shall complete a background investigation as defined in § 73.2 of the individual seeking to have unescorted access or access authorization. The scope of the investigation must encompass at least the past 10 years, or if 10 years of information is not available then as many years in the past that information is available. The background investigation does not apply to Federal, State or local law enforcement personnel who are performing escort duties. The background investigation must include, but is not limited to, the following elements:

(1) *Informed consent.* Licensees shall not initiate any element of a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with appropriate entities. The licensee to whom the individual is applying for access authorization shall inform the individual of his or her right to review information collected to assure its accuracy, and provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed by the licensee.

(i) The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:

(A) Withdrawal of his or her consent will remove the individual's application for access authorization under the licensee's access authorization program; and

(B) Other licensees shall have access to information documenting the withdrawal.

(ii) If an individual withdraws his or her consent, licensees may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent, but shall complete any background investigation elements that are in progress at the time consent is withdrawn. The licensee shall record the status of the individual's application for access authorization. Additionally, licensees shall collect and maintain the individual's application for access authorization; his or her withdrawal of consent for the background investigation; the reason given by the individual for the withdrawal; and any pertinent information collected from the background investigation elements that were completed. This information must be shared with other licensees under paragraph (l)(4) of this section.

(iii) Licensees shall inform, in writing, any individual who is applying for access authorization that the following actions are sufficient cause for denial or unfavorable termination of access authorization status:

(A) Refusal to provide a signed consent for the background investigation;

(B) Refusal to provide, or the falsification of, any personal history information required under this section, including the failure to report any previous denial or unfavorable termination of access authorization;

(C) Refusal to provide signed consent for the sharing of personal information with other licensees under paragraph (d)(5)(v) of this section; or

(D) Failure to report any arrests or legal actions specified in paragraph (f) of this section.

(2) *Personal history disclosure.* Any individual who is required to have a background investigation under this section shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this section is sufficient cause for denial or termination of access authorization.

(3) *Fingerprinting.* Fingerprinting and an FBI identification and criminal history records check under § 73.57.

(4) *Verification of true identity.* Licensees shall verify the true identity of an individual who is applying to have access authorization to ensure that the applicant is who they claim to be. A licensee shall review official identification documents (*e.g.,* driver's license, passport, government identification, State, province, or country of birth issued certificate of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification, or maintain a photocopy of identifying documents on file under § 73.38(c). Licensees shall certify and affirm in writing that the identification was properly reviewed and maintain the certification and all related documents for review upon inspection.

(5) *Employment history evaluation.* Licensees shall ensure that an employment history evaluation has been completed on a best effort basis, by questioning the individual's present and former employers, and by determining the activities of the individual while unemployed.

(i) For the claimed employment period, the individual must provide the reason for any termination, eligibility for rehire, and other information that could reflect on the individual's trustworthiness and reliability.

(ii) If the claimed employment was military service the individual shall provide a characterization of service, reason for separation, and any disciplinary actions that could affect a trustworthiness and reliability determination.

(iii) If education is claimed in lieu of employment, the individual shall provide any information related to the claimed education that could reflect on the individual's trustworthiness and reliability and, at a minimum, verify that the individual was registered for the classes and received grades that indicate that the individual participated in the educational process during the claimed period.

(iv) If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within 3 business days of the request, the licensee shall:

(A) Document this refusal or unwillingness in the licensee's record of the investigation; and

(B) Obtain a confirmation of employment, educational enrollment and attendance, or other form of engagement claimed by the individual from at least one alternate source that has not been previously used.

(v) When any licensee is seeking the information required for an access authorization decision under this section and has obtained a signed release from the subject individual authorizing the disclosure of such information, other licensees shall make available the personal or access authorization information requested regarding the denial or unfavorable termination of an access authorization.

(vi) In conducting an employment history evaluation, the licensee may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or e-mail. Licensees shall make a record of the contents of the telephone call and shall retain that record, and any documents or electronic files obtained electronically, under paragraph (l) of this section.

(6) *Credit history evaluation.* Licensees shall ensure the evaluation of

[2] For purposes of 10 CFR 73.38, the terms "irradiated reactor fuel" as described in 10 CFR 73.37 and "spent nuclear fuel" are used interchangeably.

the full credit history of any individual who is applying for access authorization relative to spent nuclear fuel in transit. A full credit history evaluation must include, but is not limited to, an inquiry to detect potential fraud or misuse of social security numbers or other financial identifiers, and a review and evaluation of all of the information that is provided by a national credit-reporting agency about the individual's credit history. For foreign nationals and United States citizens who have resided outside the United States and do not have established credit history that covers at least the most recent 7 years in the United States, the licensee must document all attempts to obtain information regarding the individual's credit history and financial responsibility from some relevant entity located in that other country or countries.

(7) *Criminal history review.* The licensee shall evaluate the entire criminal history record of an individual who is applying for access authorization to determine whether the individual has a record of criminal activity that may adversely impact his or her trustworthiness and reliability. The scope of the applicant's criminal history review must cover all residences of record for the 10 year period preceding the date of application for access authorization.

(8) *Character and reputation determination.* Licensees shall ascertain the character and reputation of an individual who has applied for access authorization relative to spent nuclear fuel in transit by conducting reference checks. Reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to, the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. The reference checks must focus on the individual's reputation for trustworthiness and reliability.

(9) *Obtain independent Information.* The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual).

(e) *Determination of Trustworthiness and Reliability; Documentation.* (1) The licensee shall determine whether to grant, deny, unfavorably terminate, maintain, or administratively withdraw an individual's access authorization based on an evaluation of all of the information required by this section. The licensee may terminate or administratively withdraw an individual's access authorization based on information obtained after the background investigation has been completed and the individual granted access authorization.

(2) The licensee may not permit any individual to have unescorted access or access authorization until all of the information required by this section has been evaluated by the reviewing official and the reviewing official has determined that the individual is trustworthy and reliable. The licensee may deny unescorted access or access authorization to any individual based on disqualifying information obtained at any time during the background investigation.

(f) *Protection of Information.* (1) Licensees shall protect background investigation information from unauthorized disclosure.

(2) Licensees may not disclose the background investigation information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to know in performing assigned duties related to the process of granting or denying unescorted access to spent nuclear fuel in transit. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need to know.

(3) The personal information obtained on an individual from a background investigation may be transferred to another licensee:

(i) Upon the individual's written request to the licensee holding the data to re-disseminate the information contained in his/her file; and

(ii) The acquiring licensee verifies information such as name, date of birth, social security number, sex, and other applicable physical characteristics for identification.

(4) The licensee shall make background investigation records obtained under this section available for examination by an authorized representative of NRC to determine compliance with applicable laws and regulations.

(5) The licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the file has been transferred, on an individual (including data indicating no record) for 5 years from the date the individual no longer requires unescorted access or access authorization relative to spent nuclear fuel in transit.

(g) *Grandfathering.* For purposes of this section, licensees are not required to obtain the fingerprints of any person who has been fingerprinted, pursuant to an NRC order or regulation, for an FBI identification and criminal history records check within the 5 years of the effective date of this rule.

(h) *Reinvestigations.* Licensees shall conduct fingerprinting and FBI identification and criminal history records check, a criminal history review, and credit history re-evaluation every 10 years for any individual who has unescorted access authorization to spent nuclear fuel in transit. The reinvestigations must be completed within 10 years of the date on which these elements were last completed and should address the 10 years following the previous investigation.

(i) *Self-reporting of legal actions.* (1) Any individual who has applied for an access authorization or is maintaining an access authorization under this section shall promptly report to the reviewing official, his or her supervisor, or other management personnel designated in licensee procedures any legal action(s) taken by a law enforcement authority or court of law to which the individual has been subject that could result in incarceration or a court order or that requires a court appearance, including but not limited to an arrest, an indictment, the filing of charges, or a conviction, but excluding minor civil actions or misdemeanors such as parking violations or speeding tickets. The recipient of the report shall, if other than the reviewing official, promptly convey the report to the reviewing official. On the day that the report is received, the reviewing official shall evaluate the circumstances related to the reported legal action(s) and re-determine the reported individual's access authorization status.

(2) The licensee shall inform the individual of this obligation, in writing, prior to granting unescorted access or certifying access authorization.

(j) *Access Authorization Procedures.* (1) Licensees shall develop, implement, and maintain written procedures for conducting background investigations for persons who are applying for unescorted access or access authorization for spent nuclear fuel in transit.

(2) Licensees shall develop, implement, and maintain written procedures for updating background investigations for persons who are applying for reinstatement of unescorted access or access authorization.

(3) Licensees shall develop, implement, and maintain written procedures to ensure that persons who have been denied unescorted access or access authorization are not allowed access to spent nuclear fuel in transit or

information relative to spent nuclear material in transit.

(4) Licensees shall develop, implement, and maintain written procedures for the notification of individuals who are denied unescorted access or access authorization for spent nuclear fuel in transit. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access or access authorization. The procedure must contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access or access authorization and allow the individual an opportunity to provide additional relevant information.

(k) *Right to correct and complete information.* (1) Prior to any final adverse determination, licensees shall provide each individual subject to this section with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of 1 year from the date of the notification.

(2) If after reviewing their criminal history record an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures.

(l) *Records.* (1) The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 5 years from the date the individual no longer requires unescorted access or access authorization relative to spent nuclear fuel in transit.

(2) The licensee shall retain a copy of the current access authorization program procedures as a record for 5 years after the procedure is no longer needed or until the Commission terminates the license, if the license is terminated before the end of the retention period. If any portion of the procedure is superseded, the licensee shall retain the superseded material for 5 years after the record is superseded.

(3) The licensee shall retain the list of persons approved for unescorted access or access authorization and the list of those individuals that have been denied unescorted access or access authorization for 5 years after the list is superseded or replaced.

(4) Licensees who have been authorized to add or manipulate data that is shared with licensees subject to this section shall ensure that data linked to the information about individuals who have applied for unescorted access or access authorization, which is specified in the licensee's access authorization program documents, is retained.

(i) If the shared information used for determining individual's trustworthiness and reliability changes or new or additional information is developed about the individual, the licensees that acquire this information shall correct or augment the data and ensure it is shared with licensees subject to this section. If the changed, additional or developed information has implications for adversely affecting an individual's trustworthiness and reliability, licensees who discovered or obtained the new, additional or changed information, shall, on the day of discovery, inform the reviewing official of any licensee access authorization program under which the individual is maintaining his or her unescorted access or access authorization status of the updated information.

(ii) The reviewing official shall evaluate the shared information and take appropriate actions, which may include denial or unfavorable termination of the individual's unescorted access or access authorization. If the notification of change or updated information cannot be made through usual methods, licensees shall take manual actions to ensure that the information is shared as soon as reasonably possible. Records maintained in any database(s) must be available for the NRC review.

(5) If a licensee administratively withdraws an individual's unescorted access or access authorization status caused by a delay in completing any portion of the background investigation or for a licensee initiated evaluation, or re-evaluation that is not under the individual's control, the licensee shall record this administrative action to withdraw the individual's unescorted access or unescorted access authorization with other licensees subject to this section. However, licensees shall not document this administrative withdrawal as denial or unfavorable termination and shall not respond to a suitable inquiry conducted under the provisions of 10 CFR part 26, a background investigation conducted under the provisions of this section, or any other inquiry or investigation as denial nor unfavorable termination. Upon favorable completion of the background investigation element that caused the administrative withdrawal, the licensee shall immediately ensure that any matter that could link the individual to the administrative action is eliminated from the subject individual's access authorization or personnel record and other records, except if a review of the information obtained or developed causes the reviewing official to unfavorably terminate or deny the individual's unescorted access.

4. In § 73.71, paragraphs (a) introductory text, (a)(1), (a)(4), (a)(5) and (b) are revised to read as follows:

§ 73.71 Requirement for advance notice of shipment of formula quantities of strategic special nuclear material, special nuclear material of moderate strategic significance, or irradiated reactor fuel.

(a) A licensee, other than one specified in paragraph (b) of this section, who, in a single shipment, plans to deliver to a carrier for transport, to take delivery at the point where a shipment is delivered to a carrier for transport, to import, to export, or to transport a formula quantity of strategic special nuclear material, special nuclear material of moderate strategic significance, or irradiated reactor fuel [3] required to be protected in accordance with § 73.37, shall:

(1) Notify in writing the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, using any appropriate method listed in § 73.4. Classified notifications shall be sent to the NRC headquarters classified mailing address listed in appendix A to this part.

* * * * *

(4) The NRC Headquarters Operations Center shall be notified about the shipment status by telephone at the phone numbers listed in appendix A to this part. Classified notifications shall be made by secure telephone. The notifications shall take place at the following intervals:

(i) At least 2 days before commencement of the shipment;

(ii) Two hours before commencement of the shipment; and

(iii) Once the shipment is received at its destination.

(5) The NRC Headquarters Operations Center shall be notified by telephone of schedule changes of more than 6 hours at the phone numbers listed in Appendix A to this part. Classified notifications shall be made by secure telephone.

(b) A licensee who conducts an on-site transfer of spent nuclear fuel that does not travel upon or cross a public highway is exempt from the requirements of this section for that transfer.

[3] For purposes of 10 CFR 73.72, the terms "irradiated reactor fuel" as described in 10 CFR 73.37 and "spent nuclear fuel" are used interchangeably.

Dated at Rockville, Maryland, this 1st day of October 2010.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2010–25392 Filed 10–12–10; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1021; Directorate Identifier 2010–CE–053–AD]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited Model FU24–954 and FU24A–954 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above that would supersede two existing ADs. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

To prevent possible in-flight failure of the vertical stabiliser, leading to loss of control of the aircraft * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by November 29, 2010.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–1021; Directorate Identifier 2010–CE–053–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On February 4, 2004, we issued AD 2004–03–29, Amendment 39–13473 (69 FR 6553; February 11, 2004) and on June 30, 2008, we issued AD 2008–14–12, Amendment 39–15607 (73 FR 40951; July 17, 2008). Those ADs required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2008–14–12, Pacific Aerospace Limited has developed a new vertical stabilizer design to eliminate the cracking in the vertical stabilizer that occurred with the original design. The new vertical stabilizer design incorporates a forward spar and is a failsafe structure.

The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued AD DCA/FU24/178, dated April 30, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

To prevent possible in-flight failure of the vertical stabiliser, leading to loss of control of the aircraft * * *

Replace the vertical stabiliser with P/N 08–32005–2 by accomplishing modification PAC/FU/0345 in accordance with the instructions in Pacific Aerospace Limited Mandatory SB No. PACSB/FU/094 issue1 dated 14 August 2008 * * *

The MCAI requires replacement of the vertical stabilizer with a new design that incorporates a forward spar and is a failsafe structure. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Pacific Aerospace Limited has issued Mandatory Service Bulletin PACSB/FU/094, Issue 1, dated August 14, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

We estimate that this proposed AD will affect 3 products of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic inspection requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the inspection cost of the proposed AD on U.S. operators to be $255, or $85 per product.

We also estimate that it would take about 10.5 work-hours and require parts costing $14,375 to comply with the replacement requirements of this proposed AD.

Based on these figures, we estimate the replacement cost of the proposed AD on U.S. operators to be $45,802.50, or $15,267.50 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–13473 (69 FR 6553) and Amendment 39–15607 (73 FR 40951); and adding the following new AD:

Pacific Aerospace Limited: Docket No. FAA–2010–1021; Directorate Identifier 2010–CE–053–AD.

Comments Due Date

(a) We must receive comments by November 29, 2010.

Affected ADs

(b) This AD supersedes AD 2004–03–29, Amendment 39–13473 and AD 2008–14–12, Amendment 39–15607.

Applicability

(c) This AD applies to Pacific Aerospace Limited FU24–954 and FU24A–954 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 55: Stabilizers.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

To prevent possible in-flight failure of the vertical stabiliser, leading to loss of control of the aircraft * * *

Replace the vertical stabiliser with P/N 08–32005–2 by accomplishing modification PAC/FU/0345 in accordance with the instructions in Pacific Aerospace Limited Mandatory SB No. PACSB/FU/094 issue1 dated 14 August 2008 * * *

The MCAI requires replacement of the vertical stabilizer with a new design that incorporates a forward spar and is a failsafe structure.

Actions and Compliance

(f) For airplanes that have not been modified by installation of vertical stabilizer part number (P/N) 08–32005–2, do the following actions:

(1) As of August 21, 2008 (the effective date retained from AD 2008–14–12), before the first flight of the day, visually inspect the vertical stabilizer leading edge skin and fin for any cracking, corrosion, scratches, dents, creases,
and/or buckling and repair as necessary. All non-transparent protective coatings and their adhesive must be removed for this inspection.

(2) Within 100 hours time-in-service (TIS) after August 21, 2008 (the effective date retained from AD 2008–14–12), and repetitively thereafter at intervals not to exceed 100 hours TIS, perform a detailed inspection of the vertical stabilizer leading edge skin, leading edge, fin skin, and the fin forward attachment point for any cracking, corrosion, scratches, dents, creases, and/or buckling to include:

(i) Inspection of the entire leading edge down to the forward attach fitting and removal of dorsal fin extensions, if installed, to inspect the obscured areas of the fin.

(ii) Inspection of the fin skin for corrosion and cracks, paying particular attention to the center rib rivet holes and the skin joint at the fin base.

(iii) Inspection of the fin forward attachment point for corrosion, removal of the fin tip, and inspection of the top rib for cracks at the skin stiffener cut outs.

(3) If any damage is found during any inspection required in paragraph (f)(1) or (f)(2) of this AD, before further flight, obtain an FAA-approved repair scheme from the manufacturer and incorporate that repair. Contact the manufacturer for the repair scheme by one of the methods listed in the Related Information section of this AD

(4) The following transparent polyurethane protective tapes have been assessed as suitable for use to re-protect the leading edge and may remain in situ for subsequent inspections, provided they are sound and in a condition to permit visual inspection of the skin beneath them:

Manufacturer	Product
(i) 3M	8591, or 8671, 8672 and 8681HS (aeronautical grade).
(ii) Scapa	Aeroshield P2604 (transparent).

Note 1: You may apply for an alternative method of compliance (AMOC) for an alternative to the transparent polyurethane protective tapes listed above.

(5) Within 6 months after the effective date of this AD, replace the vertical stabilizer with

P/N 08–32005–2 following Pacific Aerospace Limited Mandatory Service Bulletin PACSB/FU/094, Issue 1, dated August 14, 2008. Installation of vertical stabilizer P/N 08–32005–2 terminates the repetitive inspection requirements of paragraphs (f)(1) and (f)(2) of this AD.

(g) For airplanes that have been modified by installation of vertical stabilizer P/N 08–32005–2, do the following actions:

(1) Within 300 hours TIS after installation of vertical stabilizer P/N 08–32005–2 or within 50 hours TIS after the effective date of this AD, whichever occurs later, and repetitively thereafter at intervals not to exceed 300 hours TIS, do a detailed visual inspection of the vertical stabilizer following paragraph 2.B.i) of Pacific Aerospace Limited Mandatory Service Bulletin PACSB/FU/094, Issue 1, dated August 14, 2008.

(2) Within 3,000 hours TIS after installation of vertical stabilizer P/N 08–32005–2 or within 50 hours TIS after the effective date of this AD, whichever occurs later, and repetitively thereafter at intervals not to exceed 3,000 hours TIS, do an eddy current inspection following paragraph 2.B.ii) of Pacific Aerospace Limited Mandatory Service Bulletin PACSB/FU/094, Issue 1, dated August 14, 2008.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows:

(1) The inspections required in paragraph (f)(1) of this AD must be performed by a person authorized under 14 CFR part 43 to perform inspections, as opposed to the MCAI, which allows the holder of a pilot license to perform the inspections.

(2) The 50-hour inspection required in the MCAI is not applicable because the "before the first flight of the day" inspection captures the intent.

(3) The MCAI does not require the inspections listed in Pacific Aerospace Limited Mandatory Service Bulletin PACSB/FU/094, Issue 1, dated August 14, 2008. To require compliance with these inspections for U.S. owners and operators we are requiring the inspections through this AD action.

Other FAA AD Provisions

(h) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(i) Refer to MCAI Civil Aviation Authority of New Zealand AD DCA/FU24/178, dated April 30, 2009; and Pacific Aerospace Limited Mandatory Service Bulletin PACSB/FU/094, Issue 1, dated August 14, 2008, for related information. For service information contact Pacific Aerospace Limited, Hamilton Airport, Private Bag HN3027, Hamilton, New Zealand; telephone: + (64) 7–843–6144; fax + (64) 7–843–6134; email: *pacific@aerospace.co.nz.*

Issued in Kansas City, Missouri, on October 6, 2010.

Christina L. Marsh,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–25700 Filed 10–12–10; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 240, and 249

[Release Nos. 33–9148; 34–63029; File No. S7–24–10]

RIN 3235–AK75

Disclosure for Asset-Backed Securities Required by Section 943 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: Pursuant to Section 943 of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] we are proposing rules related to representations and warranties in asset-backed securities offerings. Our proposals would require securitizers of asset-backed securities to disclose fulfilled and unfulfilled repurchase requests across all transactions. Our proposals would also require nationally recognized statistical rating organizations to include information regarding the representations, warranties and enforcement mechanisms available to investors in an asset-backed securities offering in any report accompanying a credit rating issued in connection with such offerings, including a preliminary credit rating.

DATES: Comments should be received on or before November 15, 2010.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*);
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–24–10 on the subject line; or
- Use the Federal Rulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–24–10. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/proposed.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Rolaine Bancroft, Attorney-Advisor, in the Office of Rulemaking, at (202) 551–3430, Division of Corporation Finance, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628 or, with respect to proposed Rule 17g–7, Joseph I. Levinson, Special Counsel, at (202) 551–5598; Division of Trading and Markets, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: We are proposing amendments to Items 1104 and 1121 [2] of Regulation AB [3] (a subpart

[1] Public Law 111–203 (July 21, 2010).

[2] 17 CFR 229.1104 and 17 CFR 229.1121.

[3] 17 CFR 229.1100 through 17 CFR 229.1123.

of Regulation S–K) under the Securities Act of 1933 ("Securities Act").[4] We also are proposing to add Rules 15Ga–1[5] and 17g–7[6] and Form ABS–15G[7] under the Securities Exchange Act of 1934 ("Exchange Act").[8]

Table of Contents

I. Background
II. Discussion of Proposals
A. Proposed Disclosure Requirements for Securitizers
1. Definition of Exchange-Act ABS for Purposes of Rule 15Ga–1
2. Definition of Securitizer for Purposes of Rule 15Ga–1
3. Disclosures Required by Proposed Rule 15Ga–1
4. Proposed Form ABS–15G
5. Offshore Sales of Exchange Act-ABS
B. Proposed Disclosure Requirements in Regulation AB Transactions
C. Proposed Disclosure Requirements for NRSROs
III. Transition Period
IV. General Request for Comments
V. Paperwork Reduction Act
A. Background
B. PRA Reporting and Cost Burden Estimates
1. Form ABS–15G
2. Rule 15Ga–1
3. Forms S–1 and S–3
4. Form 10–D
5. Regulation S–K
6. Rule 17g–7
7. Summary of Proposed Changes to Annual Burden Compliance in Collection of Information
8. Solicitation of Comments
VI. Benefit-Cost Analysis
A. Benefits
B. Costs
C. Request for Comment
VII. Consideration of Burden on Competition and Promotion of Efficiency, Competition and Capital Formation
VIII. Small Business Regulatory Enforcement Fairness Act
IX. Regulatory Flexibility Act Certification
X. Statutory Authority and Text of Proposed Rule and Form Amendments

I. Background

This release is one of several that the Commission is required to issue to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") related to asset-backed securities ("ABS"). In this release, we propose rules to implement Section 943 of the Act, which requires the Commission to prescribe regulations on the use of representations and warranties in the market for asset-backed securities:

(1) To require any securitizer to disclose fulfilled and unfulfilled repurchase requests across all trusts aggregated by securitizer, so that investors may identify asset originators with clear underwriting deficiencies; and

(2) To require each nationally recognized statistical rating organization ("NRSRO") to include, in any report accompanying a credit rating for an asset-backed securities offering, a description of (A) the representations, warranties and enforcement mechanisms available to investors; and (B) how they differ from the representations, warranties and enforcement mechanisms in issuances of similar securities.[9]

The Act requires us to adopt these rules within 180 days of enactment of the Act.

In April of 2010, we proposed rules that would revise the disclosure, reporting and offering process for asset-backed securities (the "2010 ABS Proposing Release").[10] Among other things, the 2010 ABS Proposing Release proposed new disclosure requirements with respect to repurchase requests. Specifically, we proposed that issuers disclose in prospectuses the repurchase demand and repurchase and replacement activity for the last three years of sponsors of asset-backed transactions or originators of underlying pool assets if they are obligated to repurchase assets pursuant to the transaction agreements.[11] These disclosure requirements would apply to offerings of ABS registered under the Securities Act or ABS offered and sold without registration in reliance upon Securities Act rules, which includes both offerings eligible for Rule 144A resales and other offerings conducted in reliance on exemptions from registration. We also proposed that issuers disclose the repurchase demand and repurchase and replacement activity concerning the asset pool on an ongoing basis in periodic reports.[12] As described in Section II.B. below, we are re-proposing the disclosure requirements with respect to repurchase requests in Regulation AB in order to conform the disclosures to those required by Section 943 of the Act.

In the underlying transaction agreements for an asset securitization, sponsors or originators typically make representations and warranties relating to the pool assets and their origination, including about the quality of the pool assets. For instance, in the case of residential mortgage-backed securities, one typical representation and warranty is that each of the loans has complied with applicable federal, state and local laws, including truth-in-lending, consumer credit protection, predatory and abusive laws and disclosure laws. Another representation that may be included is that no fraud has taken place in connection with the origination of the assets on the part of the originator or any party involved in the origination of the assets. Upon discovery that a pool asset does not comply with the representation or warranty, under transaction covenants, an obligated party, typically the sponsor, must repurchase the asset or substitute a different asset that complies with the representations and warranties for the non-compliant asset. The effectiveness of the contractual provisions related to representations and warranties has been questioned and lack of responsiveness by sponsors to potential breaches of the representations and warranties relating to the pool assets has been the subject of investor complaint.[13]

[4] 15 U.S.C. 77a *et seq.*

[5] 17 CFR 240.15Ga–1.

[6] 17 CFR 240.17g–7.

[7] 17 CFR 249.1300.

[8] 15 U.S.C. 78a *et seq.*

[9] *See* Section 943 of the Act.

[10] *See Asset Backed Securities*, SEC Release No. 33–9117 (April 7, 2010) [75 FR 23328] (the "2010 ABS Proposing Release").

[11] Depending on the transaction, the originator of the assets or, most typically, the sponsor of the securities—who could also function as the originator—would be the obligated party. *See* previously proposed Items 1104(f) and 1110(c) of Regulation AB in the 2010 ABS Proposing Release.

[12] *See* previously proposed Item 1121(c) of Regulation AB in the 2010 ABS Proposing Release.

[13] As we noted in the 2010 ABS Proposing Release, transaction agreements typically have not included specific mechanisms to identify breaches of representations and warranties or to resolve a question as to whether a breach of the representations and warranties has occurred. Thus, these contractual agreements have frequently been ineffective because, without access to documents relating to each pool asset, it can be difficult for the trustee, which typically notifies the sponsor of an alleged breach, to determine whether or not a representation or warranty relating to a pool asset has been breached. In the 2010 ABS Proposing Release, the Commission proposed a condition to shelf eligibility that would require a provision in the pooling and servicing agreement that would require the party obligated to repurchase the assets for breach of representations and warranties to periodically furnish an opinion of an independent third party regarding whether the obligated party acted consistently with the terms of the pooling and servicing agreement with respect to any loans that the trustee put back to the obligated party for violation of representations and warranties and which were not repurchased. *See* Section II.A.3.b. of the 2010 ABS Proposing Release. *See also* the Committee on Capital Markets Regulation, *The Global Financial Crisis: A Plan for Regulatory Reform*, May 2009, at 135 (noting that contractual provisions have proven to be of little practical value to investors during the crisis); *see also Investors Proceeding with Countrywide Lawsuit*, Mortgage Servicing News, Feb. 1, 2009 (describing class action investor suit against Countrywide in which investors claim that language in the pooling and servicing agreements requires the seller/servicer to repurchase loans that were originated with "predatory" or abusive lending practices) and American Securitization Forum, *ASF Releases Model Representations and Warranties to Bolster Risk Retention and Transparency in Mortgage Securitizations*, (Dec. 15, 2009), available at

Continued

II. Discussion of Proposals

A. Proposed Disclosure Requirements for Securitizers

We are proposing to add new Rule 15Ga–1 to implement Section 943(2) of the Act. This proposed rule would require any securitizer of asset-backed securities to disclose fulfilled and unfulfilled repurchase requests across all trusts aggregated by securitizer, so that investors may identify asset originators with clear underwriting deficiencies. Under our proposals, a securitizer would provide the disclosure by filing new proposed Form ABS–15G.

1. Definition of Exchange Act-ABS for Purposes of Rule 15Ga–1

The Act amended the Exchange Act to include a definition of an "asset-backed security" and Section 943 of the Act references that definition.[14] The statutory definition of an asset-backed security ("Exchange Act-ABS") is much broader than the definition of an asset-backed security in Regulation AB ("Reg AB–ABS").[15] The definition of an Exchange Act-ABS includes securities that are typically sold in transactions that are exempt from registration under the Securities Act, such as collateralized debt obligations ("CDOs"), as well as securities issued or guaranteed by a government sponsored entity, such as Fannie Mae and Freddie Mac.[16] Similarly, if a municipal entity issues securities collateralized by a self-liquidating pool of loans that allow holders of the securities to receive payments that depend primarily on cash flow from those loans, that security would fall within the definition of an Exchange Act-ABS.[17] Since Section 943 uses the broader Exchange Act-ABS definition, our proposed Rule 15Ga–1 would require a securitizer to provide disclosures relating to all asset-backed securities that fall within the statutory definition, whether or not sold in Securities Act registered transactions. However, as we discuss further below, even if a security meets the definition of an Exchange Act-ABS, the new disclosure requirement would not be triggered if the underlying transaction agreements do not contain a covenant to repurchase or replace an asset.

Request for Comment:

1. Is it clear what types of securities a securitizer would have to provide representation and warranty repurchase disclosure about under proposed Rule 15Ga–1? If not, please identify which securities are not clearly covered and the reasons why those securities are not clearly included or excluded by the proposal.

2. Should we provide further guidance regarding the application of proposed Rule 15Ga–1 to securities issued by municipal entities that would fall within the definition of Exchange Act-ABS? Is it clear what types of municipal securities a municipal securitizer would have to provide representation and warranty repurchase disclosure about under proposed Rule 15Ga–1? If not, please identify those types of municipal securities that are not clearly covered and explain why they are not clearly included or excluded by the proposal.

2. Definition of Securitizer for Purposes of Rule 15Ga–1

Section 943 and proposed Rule 15Ga–1 impose the disclosure obligation on a "securitizer" as defined in the Exchange Act. The Act amended the Exchange Act to include the definition of a "securitizer." Under the Exchange Act, a securitizer is either:

(A) An issuer of an asset-backed security; or

(B) A person who organizes and initiates an asset-backed securities transaction by selling or transferring assets, either directly or indirectly, including through an affiliate, to the issuer.[18]

The definition of securitizer is not specifically limited to entities that undertake transactions that are registered under the Securities Act or conducted in reliance upon any particular exemption. Consequently, we believe it is intended to apply to any entity or person that issues or organizes an Exchange Act-ABS as specified in Section 15G(a)(3) of the Exchange Act. As a result, proposed Rule 15Ga–1 would require any entity coming within the Section 15G(a)(3) definition of securitizer, including government sponsored entities such as Fannie Mae, Freddie Mac, or a municipal entity, to provide the proposed disclosures. Further, as noted above, Section 943 and Section 15G(a)(3) do not distinguish between securitizers of Exchange Act-ABS in registered or unregistered transactions, and our proposed Rule 15Ga–1 would apply equally to registered and unregistered transactions.

With respect to registered transactions and the definitions of transaction parties in Regulation AB, sponsors and depositors[19] both fall within the statutory definition of securitizer. A sponsor typically initiates a securitization transaction by selling or pledging to a specially created issuing entity a group of financial assets that the sponsor either has originated itself or has purchased in the secondary market.[20] In some instances, the transfer

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http://www.americansecuritization.com. It has been reported that only large ABS investors, such as Fannie Mae and Freddie Mac, have been able to effectively exercise repurchase demands. *See* Aparajita Saha-Bubna, "Repurchased Loans Putting Banks in Hole," *Wall Street Journal* (Mar. 8, 2010) (noting that most mortgages put back to lenders are coming from Fannie Mae and Freddie Mac).

[14] Section 3(a)(77) of the Exchange Act provides that the term "asset backed security" means a fixed-income or other security collateralized by any type of self-liquidating financial asset (including a loan, a lease, a mortgage, or a secured or unsecured receivable) that allows the holder of the security to receive payments that depend primarily on cash flow from the asset, including a collateralized mortgage obligation; a collateralized debt obligation; a collateralized bond obligation; a collateralized debt obligation of asset-backed securities; a collateralized debt obligation of collateralized debt obligations; and a security that the Commission, by rule, determines to be an asset-backed security for purposes of this section; and does not include a security issued by a finance subsidiary held by the parent company or a company controlled by the parent company, if none of the securities issued by the finance subsidiary are held by an entity that is not controlled by the parent company. Section 3(a)(77) of the Exchange Act, as amended by the Act.

[15] In 2004, we adopted the definition of "asset-backed security" in Regulation AB. The definition and our interpretations of it are intended to establish parameters for the types of securities that are appropriate for the alternate disclosure and regulatory regime provided in Regulation AB and the related rules for Form S–3 registration of ABS. The definition does not mean that public offerings of securities outside of these parameters, such as synthetic securitizations, may not be registered with the Commission, but only that the alternate regulatory regime is not designed for those securities. The definition does mean that such securities must rely on non-ABS form eligibility for registration, including shelf registration. *See* Section III.A.2 of *Asset-Backed Securities*, SEC Release 33–8518 (January 7, 2005) [70 FR 1506] (the "2004 ABS Adopting Release") and Item 1101(c) of Regulation AB [17 CFR 1101(c)].

[16] Government sponsored enterprises (GSEs) such as Fannie Mae and Freddie Mac purchase mortgage loans and issue or guarantee mortgage-backed securities (MBS). MBS issued or guaranteed by these GSEs have been and continue to be exempt from registration under the Securities Act and reporting under the Exchange Act. For more information regarding GSEs, *see* Task Force on Mortgage-Backed Securities Disclosure, "Staff Report: Enhancing Disclosure in the Mortgage-Backed Securities Markets" (Jan. 2003) available at *http://www.sec.gov/news/studies/mortgagebacked.htm.*

[17] For a discussion of municipal ABS, *see generally* Robert A. Fippinger, The Securities Law of Public Finance vol. 1, § 1:6.2[B], 1–70—1–72 (2d ed., Practicing Law Institute 2009).

[18] *See* Section 15G(a)(3) of the Exchange Act, as amended by the Act.

[19] Securities Act Rule 191 [17 CFR 230.191] generally defines an issuer as the depositor.

[20] A sponsor, as defined in Regulation AB, is the person who organizes and initiates an asset-backed securities transaction by selling or transferring assets, either directly or indirectly, including through an affiliate, to the issuing entity. *See* Item 1101(l) of Regulation AB [17 CFR 229.1101(l)]. Sponsors of asset-backed securities often include banks, mortgage companies, finance companies, investment banks and other entities that originate or acquire and package financial assets for resale as

of assets is a two-step process: the financial assets are transferred by the sponsor first to an intermediate entity, often a limited purpose entity created by the sponsor for a securitization program and commonly called a depositor, and then the depositor will transfer the assets to the issuing entity for the particular asset-backed transaction.[21] Because both sponsors and depositors fit within the statutory definition of securitizers, both entities would have the disclosure responsibilities under proposed Rule 15Ga–1. However, if a sponsor filed all disclosures proposed to be required under Rule 15Ga–1, which would include disclosures of the activity of affiliated depositors, Rule 15Ga–1 would provide that those affiliated depositors would not have to separately provide and file the same disclosures. Such disclosure would be duplicative and would not provide any additional useful information, since as noted above, the depositor usually serves as an intermediate entity of a transaction initiated by a sponsor.[22]

Request for Comment:

3. Is it clear which entities or persons would have disclosure responsibilities under proposed Rule 15Ga–1? If not, please identify those possible entities or persons, describe their role in the transaction, and explain why they are not clearly included or excluded by the definition of a securitizer.

4. Should we provide further guidance regarding the application of proposed Rule 15Ga–1 to municipal issuers that are within the definition of securitizers? Is it clear which municipal entities would have disclosure responsibilities under proposed Rule 15Ga–1? If not, please identify those municipal entities that are not clearly covered and explain why they are not clearly included or excluded by the proposal.

3. Disclosures Required by Proposed Rule 15Ga–1

In accordance with Section 943 of the Act, we are proposing new Rule 15Ga–1[23] to require any securitizer of an Exchange Act-ABS to disclose fulfilled and unfulfilled repurchase requests across all trusts aggregated by securitizer, so that investors may identify asset originators with clear underwriting deficiencies. We are proposing that, if the underlying transaction agreements provide a covenant to repurchase or replace an underlying asset for breach of a representation or warranty, then a securitizer would be required to provide the information described below for all assets originated or sold by the securitizer that were the subject of a demand for repurchase or replacement with respect to all outstanding Exchange Act-ABS held by non-affiliates of the securitizer. If the underlying agreements of an Exchange Act-ABS do not contain a covenant to repurchase or replace an underlying asset, then no transaction party would be entitled to demand repurchase or replacement. Requiring securitizers to report the activity of those Exchange Act-ABS with no demands might give an incorrect impression of sound underwriting. As discussed further below, initially, we are proposing that a securitizer provide the repurchase history for the last five years by filing Form ABS–15G at the time a securitizer first offers an Exchange Act-ABS or organizes and initiates an offering of Exchange Act-ABS, registered or unregistered, after the effective date of the proposed rules, as adopted. Going forward, a securitizer would be required to provide the disclosures for all outstanding Exchange Act-ABS on a monthly basis by filing Form ABS–15G. Information would not be required for the time period prior to the five-year look back period of the initial filing.

Section 943(2) requires disclosure of fulfilled and unfulfilled repurchase requests. It does not limit the required disclosure to those relating only to demands successfully made by the trustee. Therefore our proposal would require tabular disclosure of assets subject to any and all demands for repurchase or replacement of the underlying pool assets as long as the transaction agreements provide a covenant to repurchase or replace an underlying asset. For instance, we note that demands for repurchase may not ultimately result in a repurchase or replacement pursuant to the terms of the transaction agreement, either because of withdrawn demands or incomplete demands that did not meet the requirements of a valid demand pursuant to the transaction agreements.[24] Furthermore, it may be the case that a repurchase or replacement may occur whether or not it is determined that the obligated party was required to repurchase the asset pursuant to the terms of the transaction agreement.[25] Securitizers would be permitted to footnote the table to provide additional explanatory disclosures to describe the data disclosed. We also note that investors have demanded that trustees enforce repurchase covenants because transaction agreements do not typically contain a provision for an investor to directly make a repurchase demand.[26] As we stated earlier, Section 943(2) does not limit the required disclosures to those demands successfully made by the trustee; therefore our proposals would

ABS. *See* Section II. of the 2004 ABS Adopting Release.

[21] A depositor receives or purchases and transfers or sells the pool assets to the issuing entity. *See* Item 1101(e) of Regulation AB [17 CFR 229.1101(e)]. For asset-backed securities transactions where there is not an intermediate transfer of assets from the sponsor to the issuing entity, the term depositor refers to the sponsor. For asset-backed securities transactions where the person transferring or selling the pool assets is itself a trust, the depositor of the issuing entity is the depositor of that trust.

[22] There may be other situations where multiple affiliated securitizers would have individual reporting obligations under proposed Rule 15Ga–1 with respect to a particular transaction. Therefore, we propose that if one securitizer has filed all the disclosures required in order to meet the obligations under Rule 15Ga–1, which would include disclosures of the activity of affiliated securitizers, those affiliated securitizers would not be required to separately provide and file the same disclosures.

[23] We propose to adopt this rule as an Exchange Act rule because of the relationship with other requirements under the Exchange Act and other statutory requirements we are implementing.

[24] *See e.g.*, comment letters of ASF, Bank of America, Community Mortgage Banking Project, CRE Finance Council and Mortgage Bankers Association on the 2010 ABS Proposing Release. The public comments are available at *http://www.sec.gov/comments/s7-08-10/s70810.shtml.*

[25] See Section XI.C.2. of the 2010 ABS Proposing Release where we note that disclosures about an originator's or sponsor's refusal to repurchase or replace assets put back to them for breach of representations and warranties might create incentives for originators to agree to repurchase or replace such assets even in cases where these assets were not in breach. We explained that if investors regard such disclosures as indicative of a willingness to comply with representations and warranties in the future, then originators and sponsors might try to preserve their reputation by taking back assets even when they do not have to do so. This might create an incentive for sponsors and possibly trustees to ask for repurchase or replacement of poorly performing assets that represent no breach of representations and warranties. However, a commentator on the 2010 ABS Proposing Release stated that in certain situations, it may have the opposite effect, where the threat of a disclosure requirement may make a sponsor worry that a large number of successful repurchase claims could indicate that its initial due diligence, or the originator's loan quality was poor. *See* letter from Commonwealth of Massachusetts Attorney General.

[26] *See* Jody Shenn, "BNY Won't Investigate Countrywide Mortgage Securities," *Bloomberg Business Week* (Sep. 13, 2010) available at *http://www.businessweek.com/news/2010-09-13/bny-won-t-investigate-countrywide-mortgage-securities.html* (noting the difficulties that investors are facing to enforce contracts with respect to repurchase demands) and Al Yoon, "NY Fed joins other investors on loan repurchase bid," Reuters (Aug. 4, 2010) available at *http://www.reuters.com/article/idUSTRE6736DZ20100804* (noting that investors have been frustrated with trustees and servicers and are banding together to force trustees to act on repurchase requests). See also Kevin J. Buckley, "Securitization Trustee Issues," The Journal of Structured Finance (Summer 2010) (discussing investors demands upon trustees to enforce sellers' repurchase obligations).

require investor demands upon a trustee be included in the table, irrespective of the trustee's determination to make a repurchase demand on a securitizer based on the investor request. We are concerned, however, that initially a securitizer may not be able to obtain complete information from a trustee because it may not have tracked investor demands. Because securitizers may not have access to historical information about investor demands made upon the trustee prior to the effective date of the proposed rules, we are proposing an instruction that a securitizer may disclose in a footnote, if true, that a securitizer requested and was able to obtain only partial information or unable to obtain any information with respect to investor demands to a trustee that occurred prior to the effective date of the proposed rules and state that the disclosures do not contain all demands made prior to the effective date.[27]

We are proposing that securitizers provide the information in the following tabular format in order to aid understanding:

Name of issuing entity	Check if registered	Name of originator	Assets that were subject of demand			Assets that were repurchased or replaced			Assets that were not repurchased or replaced			Assets pending repurchase or replacement		
			(#)	($)	(% of pool)	(#)	($)	(% of pool)	(#)	($)	(% of pool)	(#)	($)	(% of pool)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)
Asset Class X														
Issuing Entity A ..... CIK #	X	Originator 1												
		Originator 2												
Issuing Entity B		Originator 3												
Total	.....	.....	#	$		#	$		#	$		#	$	
Asset Class Y														
Issuing Entity C	.....	Originator 2												
		Originator 3												
Issuing Entity D CIK#.	X	Originator 1												
Total	.....	.....	#	$		#	$		#	$		#	$	

A single securitizer may have several securitization programs to securitize different types of asset classes. Therefore, in order to organize the information in a manner that would be useful for investors, we are proposing that the securitizer disclose the asset class and group the information in the table by asset class (column (a)). We are also proposing that securitizers list the names of all the issuing entities[28] of Exchange Act-ABS, listed in order of the date of formation of the issuing entity in column (a) so that investors may identify the securities that contain the assets subject to the demands for repurchase and when the issuing entity was formed.[29] Because the Act requires disclosure with respect to all Exchange Act-ABS, Rule 15Ga–1 would require securitizers to provide disclosure for all Exchange Act-ABS where the underlying agreements include a repurchase covenant, regardless of whether the transaction was registered with the Commission. Additionally, if any of the Exchange Act-ABS of the issuing entity were registered under the Securities Act, the Central Index Key ("CIK") number of the issuing entity would be required so that investors may locate additional publicly available disclosure, if applicable.

So that investors may distinguish between transactions that were registered, and those that were not, we are also proposing that securitizers check the box in column (b) to indicate whether any Exchange Act-ABS of the issuing entity were registered under the Securities Act. We believe this indicator would provide important information so an investor may locate additional publicly available disclosure for registered transactions, if applicable.

The Act also provides that the disclosure is required "so that investors may identify asset originators with clear underwriting deficiencies."[30] Therefore, we are proposing that securitizers further break out the information by originator of the underlying assets in column (c).

Because the Act requires disclosure of all "fulfilled and unfulfilled" repurchase requests, we are proposing in Rule 15Ga–1 that securitizers disclose the assets that were subject of the demand, the assets that were repurchased or replaced and the assets that were not repurchased or replaced. In order to provide investors with useful information about the repurchase requests in relation to the overall pool of assets, we are proposing that securitizers present the number, outstanding principal balance and percentage by principal balance of the assets that were subject of demand to repurchase or replace for breach of representations and warranties (columns (d) through (f)); the number, outstanding principal balance and percentage by principal balance of assets that were repurchased or replaced for breach of representations and warranties (columns (g) through (i)); and the number, outstanding principal balance and percentage by principal balance of assets that were not repurchased or replaced for breach of representations and warranties (columns (j) through (l)).[31]

[27] This situation, as well as others, may arise where the disclosures required by proposed Rule 15Ga–1 alone may necessitate the disclosure of additional information in order to render the information not misleading. Securitizers would need to consider the antifraud provisions under the federal securities laws to determine what other information, if any, may need to be provided in offering materials given to an investor.

[28] Issuing entity is defined in Item 1101(f) of Regulation AB [17 CFR 229.1101(f)] as the trust or other entity created at the direction of the sponsor or depositor that owns or holds the pool assets and in whose name the asset-backed securities supported or serviced by the pool assets are issued.

[29] In a stand-alone trust structure, usually backed by a pool of amortizing loans, a separate issuing entity is created for each issuance of ABS backed by a specific pool of assets. The date of formation of the issuing entity would most likely be at the same time of the issuance of the ABS. In a securitization using a master trust structure, the ABS transaction contemplates future issuances of ABS by the same issuing entity, backed by the same, but expanded, asset pool. Master trusts would organize the data using the date the issuing entity was formed, which would most likely be earlier than the date of the most recent issuance of securities.

[30] *See* Section 943(2) of the Act.

[31] If the ABS were offered in a registered transaction, an investor may be able to locate additional detailed information. In the 2010 ABS

Additionally, we are proposing to require disclosure of the number, outstanding principal balance and percentage by principal balance of the assets that are pending repurchase or replacement and proposing an instruction to include a footnote to the table that provides narrative disclosure of the reasons why repurchase or replacement is pending (columns (m) through (o)). For example, the securitizer would indicate by footnote if pursuant to the terms of a transaction agreement, assets have not been repurchased or replaced pending the expiration of a cure period. Without these additional columns, the disclosures about fulfilled and unfulfilled repurchase requests of a securitizer alone may not provide clear and complete disclosure about the repurchase request history. For instance, some transaction agreements specify a cure period that typically lasts 60–90 days.[32] Including those repurchase requests that are within a cure period as assets that were not repurchased or replaced (columns (j) through (l)) would provide inaccurate disclosure about the current pending status of those repurchase requests.

Lastly, we are proposing that the table include totals by asset class for columns that require numbers of assets and principal amounts (columns (d), (e), (g), (h), (j), (k), (m) and (n)).[33]

The Act does not specify when the disclosure should first be provided, or the frequency with which it should be updated. We are proposing to require that securitizers first be required to file Form ABS–15G at the time a securitizer first offers an Exchange Act-ABS or organizes and initiates an offering of Exchange Act-ABS, registered or unregistered, after the effective date of the proposed rules, as adopted.[34] The initial filing would include the repurchase demand and repurchase and replacement history of all outstanding Exchange Act-ABS of the securitizer with respect to which the underlying transaction agreements provide a covenant to repurchase or replace an underlying asset for breach of a representation or warranty for the last five years. The initial filing would be required to include all of the information in proposed Rule 15Ga–1, even if there had been no demands to repurchase or replace assets to report with respect to any issuing entity of an Exchange-Act ABS securitized by a securitizer. We believe that the ability to compare all issuing entities and the originators of the underlying pools would provide useful information for investors by making the disclosures comparable across securitizers, so that consistent with the purposes of Section 943, an investor may identify originators with clear underwriting deficiencies.

While Section 943 does not limit the time period for disclosure, we have proposed in Rule 15Ga–1 to limit the disclosure to Exchange Act-ABS that remain outstanding and are held by non-affiliates because we believe securitizers would more likely have ready access to this information, and it is more likely to be relevant to investors than information about securities that are no longer outstanding and held by non-affiliates. While we believe that Congress intended to provide investors with historical information about repurchase activity so that investors may identify asset originators with clear underwriting deficiencies,[35] we also recognize that securitizers may not have historically collected the information required under our proposal.[36] We are proposing that the initial disclosures be limited to the last five years of activity in order to balance the requirements of Section 943 and the burden on securitizers to provide the historical disclosures. Therefore, any demand, repurchase or replacement that had occurred within the five years immediately preceding the initial filing, as of the end of the preceding month, would need to be disclosed in the table.[37]

We are also proposing that securitizers file proposed Form ABS–15G, periodically on a monthly basis with updated information so that, consistent with the purpose of Section 943 of the Act, an investor may monitor the demand, repurchase and replacement activity across all Exchange Act-ABS issued by a securitizer.[38] For registered transactions, most ABS distribute payments monthly and file Forms 10–D on a monthly basis. Similarly, given the established frequency of reporting, we believe proposed Rule 15Ga–1 disclosure should be provided to investors on a monthly basis and filed on Form ABS–15G on EDGAR within 15 calendar days after the end of each calendar month.[39]

Under the proposal, securitizers would be required to continue periodic reporting through and until the last payment on the last Exchange Act-ABS outstanding held by a non-affiliate that was issued by the securitizer or an affiliate. We are also proposing that securitizers be required to file Form ABS–15G to provide a notice to terminate the reporting obligation and disclose the date the last payment was made.

Request for Comment:

5. Is the proposed requirement to require that any securitizer of an Exchange Act-ABS transaction disclose fulfilled and unfulfilled repurchase requests in a table appropriate? Would

Proposing Release, the Commission also proposed that issuers be required to provide loan-level disclosure of repurchase requests on an ongoing basis. Under the proposal, an issuer, with each periodic report on a Form 10–D, would have to indicate whether a particular asset has been repurchased from the pool. If the asset has been repurchased, then the registrant would have to indicate whether a notice of repurchase has been received, the date the asset was repurchased, the name of the repurchaser and the reason for the repurchase. *See* previously proposed Item 1(i) of Schedule L–D [Item 1121A of Regulation AB] in the 2010 ABS Proposing Release.

[32] In response to our ABS 2010 Proposing Release, some commentators expressed concern about the timing of providing repurchase disclosures, noting that the person preparing repurchase disclosures may not be in a position to know what percentage of demands made in a period did not result in repurchase due to cure periods provided in the transaction agreements that typically last 60–90 days. See letters from the American Securitization Forum ("ASF") and Wells Fargo & Company on the 2010 ABS Proposing Release.

[33] *See* letter from Association of Mortgage Investors on the 2010 ABS Proposing Release (requesting that disclosure of information regarding claims made and satisfied under representation and warranties provisions of the transaction documents be broken down by securitization and then aggregated).

[34] Filing proposed Form ABS–15G would not foreclose the reliance of an issuer on the private offering exemption in the Securities Act of 1933 and the safe harbor for offshore transactions from the registration provisions in Section 5 [15 U.S.C. 77e]. However, the inclusion of information beyond that required in proposed Rule 15Ga–1 may jeopardize such reliance by constituting a public offering or conditioning the market for the ABS being offered under an exemption.

[35] *See* letter from Securities Industry Financial Markets Association ("SIFMA") on the 2010 ABS Proposing Release (noting that their investor members believe that issuers should be required to make disclosures about repurchase requests regardless of the date of the securitization).

[36] *See e.g.,* comment letters from ASF, Bank of America, Financial Services Roundtable and the Mortgage Bankers Association on the 2010 ABS Proposing Release.

[37] For the initial filing, we recognize that demands may have been made prior to the initial five-year look back date and that resolution may have occurred after that date. In this case, a securitizer would need to disclose that a demand was made, even though it occurred prior to the five-year look back date.

[38] *See* letter from Prudential Fixed Income Management on the 2010 ABS Proposing Release (noting that claims made against a sponsor should be included in offering materials and regularly reported, together with detail that clarifies the number of such claims that were accepted by the sponsor and the number of claims that were and were not approved).

[39] Form 10–Ds are required to be filed within 15 days of each required distribution date on the asset-backed securities. *See* General Instruction A.2. of Form 10–D [17 CFR 249.312]. Because securitizers may sponsor various asset classes, we believe it would be difficult to tie the timing requirements of Rule 15Ga–1 disclosure to the timing of payments on the securities.

another format be more appropriate or useful to investors?

6. Should we require, as proposed, that securitizers list all previous issuing entities with currently outstanding ABS where the underlying transaction agreements include a repurchase covenant, even if there were no demands to repurchase or replace assets in that particular pool? Should we require, as proposed, that securitizers with currently outstanding Exchange Act-ABS held by non-affiliates list all originators related to every issuing entity even if there were no demands to repurchase or replace assets related to that originator for that particular pool? Put another way, would it be useful for investors to compare all the issuing entities and originators, related to one securitizer, listed in the table, so that investors may identify asset originators with clear underwriting deficiencies, as provided in the Act?

7. Would it be appropriate for securitizers to omit the table if a securitizer had no prior demands for repurchases or replacements? If so, how would an investor be able to know why the securitizer omitted the disclosure? In lieu of a table that displayed no demands for repurchases or replacements, would it be appropriate for a securitizer to provide narrative or check box disclosure stating that no demands were made for any asset securitized by the securitizer?

8. Is it appropriate to limit disclosure to Exchange Act-ABS that remain outstanding and held by non-affiliates, as proposed? Would such a limitation be consistent with the Act? Alternatively, should disclosure be required with respect to Exchange Act-ABS that are no longer outstanding? Would such disclosure reveal potentially important information? Would it be appropriate to require disclosure regarding Exchange Act-ABS that were outstanding during a recent period, such as one, three, or five years?

9. Should the disclosure requirement only be applied prospectively, *i.e.,* disclosure would be required only with respect to repurchase demands and repurchases and replacements beginning with Exchange Act-ABS issued after the effective date of the rule? Should disclosure only be required with respect to repurchase activity after the effective date? If so, please explain why limiting disclosure to activity regarding Exchange Act-ABS issued after the effective date would be consistent with the Act, as it specifies that the disclosure be provided by any securitizer across all trusts.

10. In implementing the requirements of Section 943, should the disclosure requirement initially be limited to the last five years, as proposed? Would a different time frame be more appropriate, *e.g.,* the last three, seven or ten years of activity? Underwriting standards of originators may change over time. While information regarding repurchases within a recent time period may assist investors in identifying originators with current underwriting deficiencies, is older information, such as information about repurchases within a time period of ten years, less useful in identifying current underwriting deficiencies? [40] Would information that covers the last three, five, seven or ten years of repurchase activity provide investors with the information they need so that they "may identify asset originators with clear underwriting deficiencies"? To what extent would disclosure older than such a period add significant burdens and costs and produce information that would be of marginal utility to investors?

11. Is our proposed instruction to permit securitizers to omit disclosure of investor demands made upon the trustee prior to the effective date of the proposed rules if the information is unavailable and provide footnote disclosure, if true, that the table omits such demands and that the securitizer requested and was unable to obtain the information appropriate? If not, how would securitizers obtain the information about investor demands upon a trustee prior to the effective date of the proposed rules, as adopted?

12. Should the requirement only cover the last three, five, seven or ten years of repurchase requests on an ongoing basis? Would this format on an ongoing basis provide information in a more easily understandable manner? Would it still allow an investor to "identify asset originators with clear underwriting deficiencies"?

13. Are there any other agreements, outside of the related transaction agreements for an asset-backed security that provide for repurchase demands and repurchases and replacements? If so, please tell us what those agreements are and why securitizers should be required to report the information, including why that information would be material to an investor in a particular asset-backed security.[41]

14. Is the information proposed to be required in the table appropriate? Is there any other information that should be presented in the table that would be useful to investors? Is the proposed disclosure regarding pending repurchase requests appropriate? Should we specify that securitizers provide more detail about the reasons why the assets were not repurchased or why the assets are pending repurchase or replacement? For example, should we require more detail such as the date of claim, the date of repurchase, whether claims have been referred to arbitration, whether the claims are in a cure period, and the costs associated and expenses born by each issuing entity? [42] Should we require securitizers to provide narrative disclosure of the reasons why repurchase or replacement is pending, as proposed? If so, should we specify the level of detail to be provided regarding pending asset repurchase or replacement requests? For instance, should we specify categories for the reasons why the request is pending, *e.g.,* cure period, arbitration, etc.

15. Section 943 of the Act requires that "all fulfilled and unfulfilled repurchase requests across all trusts" be disclosed. Should we require, as proposed, that all demands for repurchase be disclosed in the table? Some commentators on the 2010 ABS Proposing Release expressed concerns about disclosing demands for repurchase that ultimately did not result in a repurchase or replacement pursuant to the terms of the transaction agreement, either because of withdrawn demands or incomplete demands that did not meet the requirements of the transaction agreements.[43] In order to address commentator's concerns, should we also require, by footnote to the table, disclosure of whether the repurchase or replacement was required by the transaction agreements or whether it occurred for some other reason? Should the disclosure indicate the type of representation or warranty that led to the repurchase or replacement?

[40] In a response to our 2010 ABS Proposing Release, the ASF noted in its comment letter that "the requirement to report three years worth of repurchase activity would potentially result in a flood of unhelpful disclosure about transactions involving unrelated asset classes, particularly with respect to sponsors or originators that are large, diversified financial institutions engaging in securitization and sales of multiple asset classes through affiliated but often separately managed business units."

[41] *See* comment letter from Massachusetts Office of Attorney General on the 2010 ABS Proposing Release (noting that side letter agreements between a sponsor and an originator may contain early payment default warranties and that the existence of such warranties often have an effect upon the performance of a securitization).

[42] *See e.g.,* comment letters of Metropolitan Life Insurance Company and the SIFMA on the 2010 ABS Proposing Release.

[43] *See e.g.,* comment letters of ASF, Bank of America, Community Mortgage Banking Project, CRE Finance Council and Mortgage Bankers Association on the 2010 ABS Proposing Release.

16. Is our proposal to require a securitizer to file its initial Form ABS–15G at the time it first offers Exchange-Act ABS or organizes and initiates an offering of Exchange Act-ABS after the implementation date of the proposed rules appropriate? What are other possible alternatives to trigger the initial filing obligation?

17. Is our proposal to require the disclosure on a monthly basis appropriate? If not, what would be the appropriate interval for the disclosures, *e.g.,* quarterly or annually?

18. Is our proposal to require that Form ABS–15G be filed within 15 calendar days after the end of each calendar month appropriate? If not, would a shorter or longer timeframe be more appropriate, *e.g.,* four days or twenty days? Please tell us why.

19. We note that the transaction agreements for certain types of ABS, such as CDOs, may not typically contain a covenant to repurchase or replace an underlying asset. Is it appropriate to exclude, as proposed, those Exchange Act-ABS with transaction agreements that do not contain a covenant to repurchase or replace the underlying assets?

20. Should the data in the table be tagged? If so, should the tagging be in XML or is a different tagging schema appropriate? If tagging is appropriate, would a phase-in period in which the disclosure would be provided without tagging pending completion of necessary technical specifications be appropriate? In order to tag the data, we would need to develop definitions that would result in consistent and comparable data across all issuing entities of all securitizers. For instance, how should we specify that securitizers tag the identity of an originator to provide consistency across disclosures provided by all securitizers? Should we assign codes that would specifically identify each originator? Or would text entry of the name of the originator be sufficient? Similarly, should we specify a unique code for all the issuing entities? For example, registered transactions would have a CIK number assigned for the issuing entity; however, unregistered transactions may not have a unique method of identification. What other definitions or responses would we need to specify in order to make the disclosure comparable across originators and securitizers?

4. Proposed Form ABS–15G

The disclosures required by proposed Rule 15Ga–1 do not fit neatly within the framework of existing Securities Act and Exchange Act Forms because those forms relate to registered ABS transactions and unregistered ABS transactions are not required to file those forms.[44] Therefore, we are proposing new Form ABS–15G to be filed on EDGAR so that parties obligated to make disclosures related to Exchange Act-ABS under Rule 15Ga–1 could file the disclosures on EDGAR. As discussed above, proposed Rule 15Ga–1 would require securitizers to disclose repurchase demand and repurchase and replacement history with respect to registered and unregistered Exchange Act-ABS transactions for as long as the securitizer has ABS outstanding and held by non-affiliates. Consistent with current filing practices for other ABS forms,[45] we are proposing, for purposes of making the disclosures required by Rule 15Ga–1, that Form ABS–15G be signed by the senior officer of the securitizer in charge of the securitization.

Request for Comment:

21. Is our proposal to require proposed Rule 15Ga–1 disclosures on new Form ABS–15G appropriate?

22. Securitizers would be required, as proposed, to file Form ABS–15G on EDGAR. If a securitizer has already been issued a CIK number, we would expect Form ABS–15G to be filed under that number. However, a securitizer may already be a registrant that has other reporting requirements under the Securities Act or the Exchange Act. Should we assign a different file number to Form ABS–15G filings in order to differentiate Form ABS–15G filings made by a registrant in its capacity as a securitizer, from other filings made pursuant to its own reporting requirements under the Securities Act and the Exchange Act? Should we also provide on the SEC website the ability to exclude, include or show only Form ABS–15G for a particular CIK number in order make it easier to locate these filings on EDGAR?

23. Instead of requiring, as proposed, that securitizers provide the Rule 15Ga–1 disclosures on Form ABS–15G, should we instead require that securitizers provide all the disclosures required by Section 943 of the Act in a manner consistent with disclosures in prospectuses and ongoing reports in a registered transaction? For instance, for registered offerings, would it be appropriate to permit issuers to satisfy their disclosure obligation by including all of the information required by proposed Rule 15Ga–1 in prospectuses and periodic reports on behalf of the securitizer for all of the affiliated trusts of a securitizer? Assuming that some securitizers offer several ABS across many asset classes, would taking this approach result in a prospectus that would be unwieldy considering the volume of information that would be required? If we took this approach, then how would that information be conveyed to investors in unregistered offerings, both initially and on an ongoing basis? Would securitizers be able to identify all of the investors that would be entitled to receive the information pursuant to Section 943 of the Act? How often should the information be conveyed to investors? What method would be used to convey the information to investors? Would securitizers post the disclosures on a Web site?

24. We are proposing that for purposes of making the disclosures required by Rule 15Ga–1 that Form ABS–15G be signed by the senior officer in charge of the securitization of the securitizer. Is there a more appropriate party to sign the form? If so, please tell us who and why.

5. Offshore Sales of Exchange-Act ABS

The market for Exchange Act-ABS is global.[46] Securitizers in the United States may sell ABS to offshore purchasers as part of a registered or unregistered offering. Under the proposal, these transactions would be subject to the requirements of proposed Rule 15Ga–1. In addition, U.S. investors may participate in offerings of ABS that primarily are offered by foreign securitizers to purchasers outside of the

[44] However, a portion of the information required by proposed Rule 15Ga–1 would be required in a registration statement and in periodic reports. We discuss those proposals below.

[45] The Form 10–K report for ABS issuers must be signed either on behalf of the depositor by the senior officer in charge of securitization of the depositor, or on behalf of the issuing entity by the senior officer in charge of the servicing. *See* General Instruction J.3. of Form 10–K [17 CFR 249.310] In addition, the certifications for ABS issuers that are required under Section 302 of the Sarbanes-Oxley Act of 2002 [15 U.S.C. 7241] must be signed either on behalf of the depositor by the senior officer in charge of securitization of the depositor if the depositor is signing the Form 10–K report, or on behalf of the issuing entity by the senior officer in charge of the servicing function of the servicer if the servicer is signing the Form 10–K report. In our 2010 ABS Proposing Release, we also proposed to require that the senior officer in charge of securitization of the depositor sign the registration statement (either on Form SF–1 or Form SF–3) for ABS issuers. *See* Section II.F. of the 2010 ABS Proposing Release.

[46] Indeed, the International Organization of Securities Commissions (IOSCO) cites the recent crisis in the subprime markets, stemming from defaulted mortgage loans in the United States and affected by issues related to liquidity and transparency, as evidence of the interrelation of today's global markets. See the *Report on the Subprime Crisis—Final Report,* Report of the Technical Committee of IOSCO, May 2008, available at *https://www.iosco.org/library/pubdocs/pdf/IOSCOPD273.pdf.*

United States. For example, a small proportion of a primarily offshore offering of ABS may be made available to U.S. investors pursuant to Section 4(2) of the Securities Act [47] or Securities Act Rule 144A.[48]

We recognize that Section 943 does not specify how its requirements apply to offshore transactions. As noted, consistent with Section 943, proposed Rule 15Ga–1 would require securitizers to disclose information about unregistered transactions, including those sold in unregistered transactions outside the United States. Securities that are sold in foreign markets and assets originated in foreign jurisdictions may be subject to different laws, regulations, customs and practices which can raise questions as to the appropriateness of the disclosures called for under Form ABS–15G. Although our proposed rules are required by the Act, and we believe the added protections of our rules would benefit investors who purchase securities in these offerings, we are mindful that the imposition of a filing requirement in connection with private placements of ABS in the United States may result in foreign securitizers seeking to avoid the filing requirement by excluding U.S. investors from purchasing portions of ABS primarily offered outside the United States, thus depriving U.S. investors of diversification and related investment opportunities.

Request for Comment:

25. Are there any extra or special considerations relating to these circumstances that we should take into account in our rules? Should our rules permit securitizers to exclude information from Form ABS–15G with respect to "foreign-offered ABS," and if so, should foreign-offered ABS be defined to include Exchange Act-ABS that were initially offered and sold in accordance with Regulation S, the payment to holders of which are made in non-U.S. currency, and have foreign assets (*i.e.,* assets that are not originated in the U.S.) that comprise at least a majority of the value of the asset pool? For this purpose, should the foreign asset composition threshold be higher or lower (*e.g.,* 40%, 60%, or 80%)? Would another definition be more appropriate?

26. Should our rules require securitizers that are foreign private issuers [49] to provide information on Form ABS–15G for those Exchange Act-ABS that are to be offered and sold in the United States pursuant to an exemption in an unregistered offering, as proposed? Instead should our rules only require disclosure about Exchange Act-ABS as to which more than a certain percentage (*e.g.,* 5%, 10% or 20%) of any class of such Exchange Act-ABS are sold to U.S. persons?

B. Proposed Disclosure Requirements in Regulation AB Transactions

The requirements in Section 943 of the Act are in many ways quite similar to the Commission's proposal for additional disclosure regarding fulfilled and unfulfilled repurchase requests. In our 2010 ABS Proposing Release,[50] we proposed expanded disclosure regarding originators [51] and sponsors,[52] such as information for certain identified originators and the sponsor relating to the amount of the originator's or sponsor's publicly securitized assets that, in the last three years, has been the subject of a demand to repurchase or replace.[53] However, the Commission's proposals would only apply to registered offerings and would only require disclosure about other registered offerings, if material. In contrast, as we discuss in our proposals above, Section 943 of the Act requires similar but expanded disclosure by requiring that any securitizer of Exchange Act-ABS disclose fulfilled and unfulfilled repurchase requests across all trusts aggregated by securitizer, so that investors may identify asset originators with clear underwriting deficiencies.[54]

In order to conform our 2010 ABS proposals to the rule proposed today to implement Section 943 of the Act, we are re-proposing our previous proposals for Regulation AB with respect to disclosures regarding sponsors in prospectuses and with respect to disclosures about the asset pool in periodic reports, so that issuers would be required to include the disclosures in the same format as required by proposed Rule 15Ga–1(a).[55] Under our revised proposals, issuers of Reg AB–ABS would need to provide disclosures in the same format as proposed Rule 15Ga–1(a) within a prospectus and within ongoing reports on Form 10–D as described below. As we stated in the 2010 ABS Proposing Release, we believe that investors must be able to readily access and understand the information for a specific offering.[56] Consistent with that belief, we are proposing that certain repurchase history should be presented in the body of the prospectus and within ongoing reports in order to facilitate investor understanding and eliminate the need to locate all of the information that may be disclosed elsewhere and by a different party. Even though our proposals discussed above would require securitizers to provide repurchase history on Form ABS–15G, we believe that issuers should provide a subset of that information to investors in the body of a prospectus or a periodic report.[57] However, the obligation of an

[47] 15 U.S.C. 77d(2). Section 4(2) provides an exemption from registration for transactions by an issuer not involving any public offering.

[48] Securities Act Rule 144A [17 CFR 230.144A] provides a safe harbor for a reseller of securities from being deemed an underwriter within the meaning of Sections 2(a)(11) and 4(1) of the Securities Act for the offer and sale of non-exchange listed securities to "qualified institutional buyers" (QIBs), as defined in Rule 144A.

[49] 17 CFR 240.3b–4.

[50] *See* Section V.A. of the 2010 ABS Proposing Release.

[51] *See* previously proposed Item 1110(c) of Regulation AB in the 2010 ABS Proposing Release.

[52] *See* previously proposed Item 1104(f) of Regulation AB in the 2010 ABS Proposing Release.

[53] The proposal would amend Regulation AB to require sponsors and originators (of greater than 20% of the assets underlying the pool) to disclose the amount, if material, of publicly securitized assets originated or sold by the sponsor that were the subject of a demand to repurchase or replace for breach of the representations and warranties concerning the pool assets that has been made in the prior three years pursuant to the transaction agreements on a pool by pool basis as well as the percentage of that amount that were not then repurchased or replaced by the sponsor. Of those assets that were not then repurchased or replaced, disclosure would be required regarding whether an opinion of a third party not affiliated with the sponsor/originator had been furnished to the trustee that confirms that the assets did not violate the representations and warranties. *See* proposed Items 1104(f), 1110(c) and 1121(c) of Regulation AB in the 2010 ABS Proposing Release.

[54] *See* Section 943 of the Act. We note that several commentators on the 2010 ABS Proposing Release expressed concerns about the difficulty of producing data to comply with the proposed requirement to report three years of repurchase activity. *See e.g.,* letters of ASF, Bank of America, Financial Services Roundtable and Mortgage Bankers Association. However, in light of the requirements of Section 943 of the Act, we continue to believe that the information is important to include in prospectuses.

[55] As discussed above, in the 2010 ABS Proposing Release, we proposed to amend Item 1110(c) of Regulation AB to require originators (of greater than 20% of the assets underlying the pool) to disclose the amount, if material, of publicly securitized assets originated or sold by the sponsor that were the subject of a demand to repurchase or replace for breach of the representations and warranties concerning the pool assets that has been made in the prior three years pursuant to the transaction agreements on a pool by pool basis as well as the percentage of that amount that were not then repurchased or replaced by the sponsor. That proposal remains outstanding.

[56] In the 2010 ABS Proposing Release, we proposed that issuers provide all disclosures in one prospectus, instead of the current practice of providing information in a base prospectus and prospectus supplement to address concerns that the base and supplement format resulted in unwieldy documents with excessive and inapplicable disclosure that is not useful to investors. *See* Section II.D.1 of the 2010 ABS Proposing Release.

[57] We are not proposing that issuers include all of the information that would be required of a securitizer under proposed Rule 15Ga–1 in prospectuses because information about other asset classes and information older than three years may make the size of the prospectus unwieldy and

issuer to provide the disclosures in prospectuses and in ongoing reports under our proposed changes to Regulation AB would be independent from, and would not alleviate the disclosure obligations of a securitizer under, proposed Rule 15Ga–1.

We are revising and re-proposing our previous proposal to amend Item 1104 of Regulation AB. As noted above, the Commission's previous proposals applied to disclosure of a sponsor's repurchase demand and repurchase and replacement history concerning the last three years with respect to other registered transactions, if material. In order to conform our previous proposal to the format of the information that would be provided by the rule proposed today to implement Section 943 of the Act, we are proposing that if the underlying transaction agreements provide a covenant to repurchase or replace an underlying asset for breach of a representation or warranty, then issuers would be required to provide in the body of the prospectus disclosure of a sponsor's repurchase demand and repurchase and replacement history for the last three years, pursuant to the format proscribed in proposed Rule 15Ga–1(a). In addition, we are also proposing to limit the disclosure required in the prospectus to repurchase history for the same asset class as the securities being registered. We are also excluding the materiality threshold that was previously proposed as Section 943 includes no such standard. Also, because we believe the complete historical information about repurchase activity may be useful to investors, an issuer would be required to reference the Form ABS–15G filings made by the securitizer (*i.e.,* sponsor) of the transaction and disclose the CIK number of the securitizer so that investors may easily locate Form ABS–15G filings on EDGAR.

Our previous proposal would amend Item 1121 of Regulation AB so that issuers would be required to disclose the repurchase demand and repurchase and replacement history with respect to assets that underlie a particular ABS on an ongoing basis in periodic reports on Form 10–D, if material.[58] We are revising and re-proposing our previous proposal to require that issuers provide in Form 10–D, repurchase demand and repurchase and replacement disclosure regarding the assets in the pool in the format prescribed by proposed Rule 15Ga–1(a). In order to conform our previous proposal to the rule proposed today to implement Section 943 of the Act, we are also excluding the materiality threshold that was previously proposed. Because we believe the complete historical information about repurchase activity may be useful to investors, the Form 10–D would also be required to include a reference to the Form ABS–15G filings made by the securitizer of the transaction and disclose the CIK number of the securitizer so that investors may easily locate Form ABS–15G filings on EDGAR. As discussed above, providing repurchase history disclosure for a particular pool in Form 10–D, is independent from and would not alleviate a securitizer's obligation to disclose ongoing information for all of their transactions as required by proposed Rule 15Ga–1.

Request for Comment:

27. Is our re-proposal to require disclosure pursuant to the format prescribed in Rule 15Ga–1(a) for the same asset class in prospectuses and for pool assets in periodic reports appropriate? Is it appropriate to limit the disclosure in prospectuses to the last three years of activity, as proposed? Would a different period (e.g., one or five years) be more appropriate?

28. Is it appropriate to omit a materiality requirement for disclosures in prospectuses, as proposed? What issues would arise by creating two different disclosure standards between what would be required to be disclosed in prospectuses and what would be disclosed by securitizers on Form ABS–15G? Are there any ways to address those issues?

29. Should we permit issuers to incorporate the repurchase demand and repurchase and replacement disclosure by reference from Form ABS–15G, instead of requiring that it be provided in the body of the prospectus or Form 10–D? Would it be burdensome for investors to search elsewhere to locate disclosure that would otherwise be included in a prospectus?

30. In the 2010 ABS Proposing Release, the Commission also proposed that originators of over 20% of the pool assets provide disclosure regarding the fulfilled and unfulfilled repurchase requests on a pool by pool basis for publicly securitized assets.[59] If we were to adopt that proposal, should we make any changes to conform that proposal given the information that would be required by proposed Rule 15Ga–1(a)? For example, should that information be provided in the same format as proposed Rule 15Ga–1(a) and should we require disclosures with respect to all originators of the pool assets?[60] Or is disclosure unnecessary in light of the other disclosures required by proposed Rule 15Ga–1?

C. Proposed Disclosure Requirements for NRSROs

We are proposing to add new Exchange Act Rule 17g–7, which would implement Section 943(1) of the Act by requiring an NRSRO to make certain disclosures in any report accompanying a credit rating relating to an asset-backed security.[61] Specifically, in accordance with Section 943(1), Rule 17g–7 would require an NRSRO[62] to include a description of the representations, warranties and enforcement mechanisms available to investors and a description of how they differ from the representations, warranties and enforcement mechanisms in issuances of similar

investors should have ready access to more current information. We are also not proposing that issuers include all of the proposed Rule 15Ga–1 in Form 10–Ds for the same reasons, and because the purpose of Form 10–D is to provide periodic performance of a specific asset pool.

[58] *See* previously proposed Item 1121(c) and Section V.A. of the 2010 ABS Proposing Release.

[59] *See* proposed Item 1110(c) of Regulation AB in the 2010 ABS Proposing Release.

[60] Originators may sell their assets to multiple securitizers. Proposed Rule 15Ga–1 would not require securitizers to disclose the demand, repurchase and replacement activity across all trusts across multiple securitizers that may contain an originator's assets. For example, under proposed Rule 15Ga–1, if securitizers A, B and C securitize the loans of an originator, Securitizer A would only need to disclose the fulfilled and unfulfilled repurchase request activity with respect to loans with respect to Securitizer A securitizations. As we discuss above, proposed Rule 15Ga–1 would require disclosure that indicates the name of the originator in order to permit "investors [to] identify asset originators with clear underwriting deficiencies," as required by Section 943 of the Act.

[61] In June 2008, the SEC proposed a new Rule 17g–7 that would have required an NRSRO to publish a report containing certain information each time the NRSRO published a credit rating for a structured finance product or, as an alternative, use ratings symbols for structured finance products that differentiated them from the credit ratings for other types of debt securities. *See Exchange Act Release No. 57967* (June 16, 2008), [73 FR 36212]. In November 2009, the SEC announced that it was deferring consideration of action on that proposal and separately proposed a new Rule 17g–7 to require annual disclosure by NRSROs of certain information. *See Proposed Rules for Nationally Recognized Statistical Rating Organizations,* SEC Release 34–61051 (November 23, 2009), [74 FR 63866]. Although we are proposing a new rule with the same rule number, that proposal remains outstanding.

[62] Current Item 1111(e) of Regulation AB [17 CFR 1111(e)] already requires *issuers* to disclose the representations and warranties related to the transaction in prospectuses. Additionally, in the 2010 ABS Proposing Release, the Commission proposed changes to this item to require a description of any representation and warranty relating to fraud in the origination of the assets, and a statement if there is no such representation or warranty.

securities.[63] As discussed above, the Act also amended the Exchange Act to include the definition of an "asset-backed security" and Section 943 of the Act references that definition.[64] Therefore, Rule 17g–7 would provide that the NRSRO must provide the disclosures with respect to any Exchange Act-ABS, whether or not the security is offered in a transaction registered with the SEC.

Section 943, by its terms, applies to any report accompanying a credit rating for an ABS transaction, regardless of when or in what context such reports and credit ratings are issued. Proposed Rule 17g–7 is intended to reflect the broad scope of this congressional mandate. In addition, we are proposing a note to the proposed rule which would clarify that for the purposes of the proposed rule, a "credit rating" would include any expected or preliminary credit rating issued by an NRSRO.[65] In ABS transactions, pre-sale reports are typically issued by an NRSRO at the time the issuer commences the offering and typically include an expected or preliminary credit rating and a summary of the important features of a transaction. Disclosure at the time pre-sale reports are issued is particularly important to investors, since such reports provide them with important information prior to the point at which they make an investment decision.[66]

Request for Comment:

31. The Act and our proposed new Rule 17g–7 require disclosure of how the representations, warranties and enforcement mechanisms in a particular deal differ from the representations, warranties and enforcement mechanisms in the issuance of similar securities. We are not specifying in this release a definition for the term "similar securities." Should we define "similar securities"? If so, how should it be defined? Should similar securities be defined by underlying asset classes (*i.e.,* residential mortgages, commercial mortgages, auto loans, or auto leases, etc.)? Or should the distinction be narrower (*i.e.,* prime residential mortgages, Alt–A residential mortgages, or subprime residential mortgages)? Or by sponsor (Originator A or Originator B, etc.)? Or by other ABS rated by the same NRSRO?

32. Section 932 of the Act further amends the Exchange Act by adding a new paragraph (s) to Section 15E requiring a form to accompany the publication of each credit rating that discloses certain information and requiring that we adopt rules requiring NRSROs to prescribe and use such a form. Would it be appropriate to require the inclusion of the disclosures about representations, warranties and enforcement mechanisms required under proposed Rule 17g–7 in the form used to make the disclosures that will be required under rules adopted pursuant to Exchange Act Section 15E(s)? Are there any timing issues that we should take into account in determining whether to do so?

33. Should we require the proposed disclosure to include comparisons to industry standards in addition to similar securities? For instance, one organization has published model standards for representation, warranties and enforcement mechanisms with respect to residential mortgage backed securities.[67] What would be an industry standard for other asset classes?

34. Is there any reason not to consider an expected or preliminary credit rating to be a "credit rating" for the purposes of the proposed rule? If so, why?

35. In the case of a registered ABS transaction, should we allow NRSROs to satisfy the requirement to disclose representations, warranties and enforcement mechanisms by referring to disclosure about those matters that is included in a prospectus prepared by an issuer?

36. Rule 17g–5, among other things, is designed to facilitate the performance of unsolicited credit ratings for structured finance products by providing a mechanism for NRSROs not hired by arrangers of structured finance products to obtain the same information provided to NRSROs hired by such arrangers to rate those products.[68] As such, non-hired NRSROs performing unsolicited credit ratings pursuant to the Rule 17g–5 mechanism would have access to the same information on a transaction's representations, warranties, and enforcement mechanisms at the same time as hired NRSROs. However, in the event that a non-hired NRSRO elected to perform an unsolicited credit rating not pursuant to Rule 17g–5, it would likely not have access to such information until it was made public. It is the Commission's understanding that prior to the introduction of the Rule 17g–5 mechanism described above, NRSROs rarely, if ever, performed unsolicited credit ratings for structured finance products. Given the availability of the Rule 17g–5 mechanism, is it likely that any NRSROs would perform unsolicited credit ratings for structured finance products in the future without relying on that mechanism to obtain information from securitizers? If so, would such NRSROs be able to comply with proposed Rule 17g–7? Would it be appropriate for such NRSROs to include an explanatory note accompanying the disclosures required by proposed Rule 17g–7 indicating that such disclosures were based only on publicly available information?

III. Transition Period

We are considering the appropriate timing for compliance and effectiveness of the proposals, if adopted, and request that commentators provide input about feasible dates for implementation of the proposed amendments. We currently anticipate that, if adopted, the new and amended rules would apply to all securitizers and NRSROs related to new issuances, including takedowns off of existing shelf registration statements, of Exchange Act-ABS. However, we note that Rule 15Ga–1, as proposed, would

[63] As discussed further in Section V.B.6. below, we anticipate that one way an NRSRO could fulfill the requirement to describe how representations, warranties and enforcement mechanisms differ from those provided in similar securities would be to review previous issuances both on an initial and an ongoing basis in order to establish "benchmarks" for various types of securities and revise them as appropriate.

[64] *See* Section 3(a)(77) of the Exchange Act, as amended by the Act.

[65] We intend the term "preliminary credit rating" to include any rating, any range of ratings, or any other indications of a rating used prior to the assignment of an initial credit rating for a new issuance. *See generally Credit Ratings Disclosure,* SEC Release No. 33–9070 (October 7, 2009) [74 FR 53086].

[66] We further note that Section 932 of the Act amends Section 15E of the Exchange Act to require a form to accompany the publication of each credit rating that discloses certain information. For the purposes of Section 943 and proposed Rule 17g–7, such a form would clearly be a "report" and its publication would therefore require the necessary disclosures regarding representations, warranties and enforcement mechanisms available to investors. The Commission has one year to adopt rules requiring NRSROs to prescribe and use a form to make certain required disclosures, whereas the Rule 17g–7 disclosures that we are proposing in this release must be prescribed within 180 days from the date of enactment of the Act. *See* Section 937 of the Act. Given that Sections 932 and 943 both mandate rules requiring NRSROs to disclose information, we solicit comment below on whether the proposed Rule 17g–7 disclosure should eventually be scoped into proposals we will issue under Section 932 regarding the disclosure that would need to be made by an NRSRO in the form accompanying the publication of each credit rating.

[67] For example, the ASF has proposed model representations and warranties designed to enhance the alignment of incentives of mortgage originators with those of investors in mortgage loans. *See* American Securitization Forum Press Release, "ASF Proposes Risk Retention and Issues Final RMBS Disclosure and Reporting Packages," July 15, 2009, available at *http://www.americansecuritization.com/story.aspx?&fnl;id=3460.*

[68] *See Amendments to Rules for Nationally Recognized Statistical Rating Organizations,* SEC Release 34–61050 (November 23, 2009), [74 FR 63832].

require disclosures about the repurchase demands and repurchases and replacements that occurred prior to the effective date of the new requirements.

Request for Comment:

37. Should implementation of any proposals be phased-in? If so, explain why and describe the timeframe needed for a phase-in (*e.g.,* six months, one or two years) and basis for such period?

38. Should implementation be based on a tiered approach that relates to a characteristic such as the size of the securitizer? Is there any reason to structure implementation around asset class of the securities? Because a reporting structure is already available for registered transactions, should prospectuses and periodic reports be required to include the demand, repurchase and replacement disclosures, as provided by our proposals to amend Items 1104 and Item 1121 of Regulation AB, before Form ABS–15G is implemented?

IV. General Request for Comments

We request comment on the specific issues we discuss in this release, and on any other approaches or issues that we should consider in connection with the proposed amendments. We seek comment from any interested persons, including investors, securitizers, asset-backed issuers, sponsors, originators, servicers, trustees, disseminators of EDGAR data, industry analysts, EDGAR filing agents, and any other members of the public.

V. Paperwork Reduction Act

A. Background

Certain provisions of the proposed rule amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 (PRA).[69] The Commission is submitting these proposed amendments and proposed rules to the Office of Management and Budget (OMB) for review in accordance with the PRA.[70] An agency may not conduct or sponsor, and a person is not required to comply with, a collection of information unless it displays a currently valid control number. The titles for the collections of information are:[71]

(1) "Form ABS–15G" (a proposed new collection of information);

(2) "Regulation S–K" (OMB Control No. 3235–0071); and

(3) "Rule 17g–7" (a proposed new collection of information).

The regulation listed in No. 2 was adopted under the Securities Act and the Exchange Act and sets forth the disclosure requirements for registration statements and periodic and current reports filed with respect to asset-backed securities and other types of securities to inform investors.

The regulations and forms listed in Nos. 1 and 3 are newly proposed collections of information under the Act. Rule 15Ga–1 would require securitizers to provide disclosure regarding all fulfilled and unfulfilled repurchase requests with respect to Exchange Act-ABS pursuant to the Act. Form ABS–15G would contain Rule 15Ga–1 disclosures and be filed with the Commission. Rule 17g–7 would require NRSROs to provide disclosure regarding representations, warranties, and enforcement mechanisms available to investors in any report accompanying a credit rating issued by an NRSRO in connection with an Exchange Act-ABS transaction.

Compliance with the proposed amendments would be mandatory. Responses to the information collections would not be kept confidential and there would be no mandatory retention period for proposed collections of information.

B. PRA Reporting and Cost Burden Estimates

Our PRA burden estimates for the proposed amendments are based on information that we receive on entities assigned to Standard Industrial Classification Code 6189, the code used with respect to asset-backed securities, as well as information from outside data sources.[72] When possible, we base our estimates on an average of the data that we have available for years 2004, 2005, 2006, 2007, 2008, and 2009.

In adopting rules under the Credit Rating Agency Reform Act of 2006 ("the Rating Agency Act"),[73] as well as proposing additional rules in November 2009, we estimated that approximately 30 credit rating agencies would be registered as NRSROs.[74]

1. Form ABS–15G

This new collection of information relates to proposed disclosure requirements for securitizers that offer Exchange Act-ABS. Under the proposed amendments, such securitizers would be required to disclose demand, repurchase and replacement history with respect to pool assets across all trusts aggregated by securitizer. The new information would be required at the time a securitizer offers Exchange Act-ABS after the implementation of the proposed rule, and then monthly, on an ongoing basis as long as the securitizer has Exchange Act-ABS outstanding held by non-affiliates. The disclosures would be filed on EDGAR on proposed Form ABS–15G. We believe that the costs of implementation would include costs of collecting the historical information, software costs, costs of maintaining the required information, and costs of preparing and filing the form. Although the proposed requirements apply to securitizers, which by definition would include sponsors and issuers, we base our estimates on the number of unique ABS sponsors because we are also proposing that issuers affiliated with a sponsor would not have to file a separate Form ABS–15G to provide the same proposed Rule 15Ga–1 disclosures. We base our estimates on the number of unique ABS securitizers (i.e., sponsors) over 2004–2009, which was 540, for an average of 90 unique securitizers per year.[75] We base our burden estimates for this collection of information on the assumption that most of the costs of implementation would be incurred before the securitizer files its first Form ABS–15G. Because ABS issuers currently have access to systems that track the performance of the assets in a pool we believe that securitizers should also have access to information regarding whether an asset had been repurchase or replaced. However, securitizers may not have historically collected the information and systems may not currently be in place to track when a demand has been made,[76] and in particular, systems may not be in place to track those demands made by investors upon trustees. Therefore, securitizers would incur a one-time cost to compile historical information in systems. Furthermore, the burden to collect and compile the historical information may vary significantly between securitizers, due

[69] 44 U.S.C. 3501 *et seq.*

[70] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[71] The paperwork burden from Regulation S–K is imposed through the forms that are subject to the requirements in those regulations and is reflected in the analysis of those forms. To avoid a Paperwork Reduction Act inventory reflecting duplicative burdens and for administrative convenience, we assign a one-hour burden to Regulation S–K.

[72] We rely on two outside sources of ABS issuance data. We use the ABS issuance data from Asset-Backed Alert on the initial terms of offerings, and we supplement that data with information from Securities Data Corporation (SDC).

[73] Public Law 109–291 (2006).

[74] *See e.g.,* Section VIII of *Proposed Rules for Nationally Recognized Statistical Rating Organizations,* SEC Release 34–61051 (December 4, 2009) [74 FR 63866].

[75] We base the number of unique sponsors on data from SDC.

[76] *See e.g.,* comment letters from ASF, Bank of America, Financial Services Roundtable and the Mortgage Bankers Association on the 2010 ABS Proposing Release.

to the number of asset classes and number of ABS issued by a securitizer.

We estimate that a securitizer would incur a one-time setup cost for the initial filing of 972 hours to collect and compile historical information and adjust its existing systems to collect and provide the required information going forward.[77] Therefore, we estimate that it would take a total of 87,480 hours for a securitizer to set up the mechanisms to file the initial Rule 15Ga–1 disclosures.[78] We allocate 75% of these hours (65,610 hours) to internal burden for all securitizers. For the remaining 25% of these hours (21,870 hours), we use an estimate of $400 per hour for external costs for retaining outside professionals totaling $8,748,000.

After a securitizer has made the necessary adjustments to its systems in connection with the proposed rule and, after an initial filing of Form ABS–15G disclosures has been made, we estimate that each subsequent filing of Form ABS–15G to disclose ongoing information by a securitizer will take approximately 30 hours to prepare, review and file. We estimate, for PRA purposes, that the number of Form ABS–15G filings per year will be 1,620.[79]

Therefore, after the initial filing is made, we estimate the total annual burden hours for preparing and filing the disclosure will be 48,600 hours.[80] We allocate 75% of those hours (36,450 hours) to internal burden hours for all securitizers and 25% of those hours (12,150 hours) for professional costs totaling $400 per hour of external costs of retaining outside professionals totaling $4,860,000. Therefore, the total internal burden hours are 102,060[81] and the total external costs are $13,608,000.[82]

2. Rule 15Ga–1

Rule 15Ga–1 contains the requirements for disclosure that a securitizer must provide in Form15G–ABS filings described above. The collection of information requirements, however, are reflected in the burden hours estimated for Form ABS–15G, therefore, Rule 15Ga–1 does not impose any separate burden. Therefore, we have not included additional burdens for proposed Rule 15Ga–1.

3. Forms S–1 and S–3

We are proposing that asset-backed securities offered on Forms S–1 and S–3 include the required Rule 15Ga–1 disclosures for the same asset class in registration statements. The burden for the collection of information is reflected in the burden hours for Form ABS–15G filed by a securitizer; however, Forms S–1 and S–3 are filed by asset-backed issuers, and issuers may include only a portion of the information in the prospectus. Therefore, we have not included additional burdens for Forms S–1 and S–3.

4. Form 10–D

In 2004, we adopted Form 10–D as a new form limited to asset-backed issuers. This form is filed within 15 days of each required distribution date on the asset-backed securities, as specified in the governing documents for such securities. The form contains periodic distribution and pool performance information.

We are proposing that issuers of registered ABS include the proposed Rule 15Ga-1 disclosures for only the pool assets on Form 10–D. However, because the burden for the collection of information is reflected in the burden hours for Form ABS–15G, we have not included additional burdens for Form 10–D.

5. Regulation S–K

Regulation S–K, which includes the item requirements in Regulation AB, contains the requirements for disclosure that an issuer must provide in filings under both the Securities Act and the Exchange Act. In 2004, we noted that the collection of information requirements associated with Regulation S–K as it applies to ABS issuers are included in Form S–1, Form S–3, Form 10–K and Form 8–K. We have retained an estimate of one burden hour to Regulation S–K for administrative convenience to reflect that the changes to the regulation did not impose a direct burden on companies.[83]

The proposed changes would make revisions to Regulation S–K. The collection of information requirements, however, are reflected in the burden hours estimated for the various Securities Act and Exchange Act forms related to ABS issuers. The rules in Regulation S–K do not impose any separate burden. Consistent with historical practice, we have retained an estimate of one burden hour to Regulation S–K for administrative convenience.

6. Rule 17g–7

This new collection of information relates to proposed disclosure requirements for NRSROs. Under the proposed amendments, an NRSRO would be required to disclose in any report accompanying a credit rating the representations, warranties and enforcement mechanisms available to investors and describe how they differ from those in issuances of similar securities. We believe that the costs of implementation would include the cost of preparing the report and maintaining the information. In addition, it is our understanding that the disclosures and drafts of transaction agreements that contain the representations, warranties and enforcement mechanisms related to an ABS transaction are prepared by the issuer and made available to NRSROs during the rating process. We estimate it would take 1 hour per ABS transaction to review the relevant disclosures prepared by an issuer, which an NRSRO would presumably have reviewed as part of the rating process, and convert those disclosures into a format suitable for inclusion in any report to be issued by an NRSRO. The proposed rule would also require an NRSRO to include disclosures describing how the representations, warranties and enforcement mechanisms differ from those provided in similar securities. Although we are not prescribing how an NRSRO must fulfill this requirement, we anticipate that one way an NRSRO could do so would be to review previous issuances both on an initial and an ongoing basis in order to establish "benchmarks" for

[77] The value of 972 hours for setup costs is based on staff experience. We estimate that 672 of those hours will be to set up systems to track the information and is calculated using an estimate of two computer programmers for two months, which equals 21 days per month times two employees times two months times eight hours per day.

[78] 972 hours to adjust existing systems per securitizer X 90 average number of unique securitizers.

[79] The Form ABS–15G is required to be filed on a monthly basis; however, we are estimating that, in the first year after implementation, the number of Form ABS–15G per year would be a multiple of six times the number of unique securitizers per year since the obligation to initially file Form ABS–15G is an offering of Exchange Act-ABS, which could happen at any time of the year. Therefore, in the first year of implementation, a securitizer would most likely not be obligated to file Form ABS–15G for the full 12 months. Thus, we estimate the total number of Form ABS–15G to be filed in the first year after implementation to be 540 (90 unique securitizers year one × 6).

In the second year after implementation, we estimate the number of Form ABS–15G to be filed will be 1080 for a total of 1,620 (90 unique securitizers year one × 12) + (90 unique securitizers year two × 6). In the third year after implementation, we estimate the number of Form ABS–15G to be filed will be 2,160 for a total of 2,700 (90 unique securitizers year one × 12) + (90 unique securitizers year two × 12) + (90 unique securitizers year three X 6). The total number of Forms 15G–ABS over three years, would therefore be 4,860. Therefore, for PRA purposes, we estimate an annual average of 1,620 Form ABS–15G filings.

[80] 30 hours × 1,620 forms.

[81] 65,610 hours + 36,450 hours.

[82] $8,748,000 + $4,860,000.

[83] *See* the 2004 ABS Adopting Release.

various types of securities and revise them as appropriate. We expect that an NRSRO would incur an initial setup cost to collect, maintain and analyze previous issuances to establish benchmarks as well as an ongoing cost to review the benchmarks to ensure that they remain appropriate. We estimate that the initial review and set up system cost will take 100 hours and that NRSROs will spend an additional 100 hours per year revising the various benchmarks. Therefore, we estimate it would take a total of 3,000 hours [84] for NRSROs to set up systems and an additional 3,000 hours per year revising various benchmarks.[85]

On a deal-by-deal basis, we estimate it would take an NRSRO 10 hours per ABS transaction to compare the terms of the current deal to those of similar securities. Because NRSROs would need to provide the disclosures in connection with the issuance of a credit rating on a particular offering of ABS, we base our estimates on an annual average of 2,067 ABS offerings.[86] Typically, the terms of the transaction agreements condition the issuance of an ABS on a credit rating, and generally, two credit ratings are required, resulting in the hiring of two NRSROs per transaction, although some may only require one credit rating and thus the hiring of one NRSRO. However, we anticipate that our recent amendments to Rule 17g–5, which provide a mechanism for allowing non-hired NRSROs to obtain the same information provided to NRSROs hired to rate structured finance transactions, will promote the issuance of credit ratings by NRSROs that are not hired by the arranger.[87] As a result, we assign 4 to the number of credit ratings per issuance of ABS, based on an average of two NRSROs preparing two reports (pre-sale and final) for each transaction. Therefore, we estimate that it would take a total of 90,948 hours, annually, for NRSROs to provide the proposed Rule 17g–7 disclosures.[88]

7. Summary of Proposed Changes to Annual Burden Compliance in Collection of Information

Table 1 illustrates the annual compliance burden of the collection of information in hours and costs for the new proposed disclosure requirements for securitizers and NRSROs. Below, the proposed Rule 15Ga–1 requirement for securitizers is noted as "Form ABS–15G" and the proposed requirement for NRSROs is noted as "17g–7."

Form	Current annual responses	Proposed annual responses	Current burden hours	Decrease or increase in burden hours	Proposed burden hours	Current professional costs	Decrease or increase in professional costs	Proposed professional costs
Form ABS–15G	.....	1,620	.....	102,060	102,060	.....	13,608,000	13,608,000
17g–7	.....	8,268	.....	96,948	96,948	.....	.....	.....

8. Solicitation of Comments

We request comments in order to evaluate: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information; (3) whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.[89] In addition, we specifically ask whether it is appropriate to assume, as we have, that for the purposes of preparing the required disclosures describing how the representations, warranties and enforcement mechanisms differ from those provided in similar securities NRSROs would review previous issuances both on an initial and an ongoing basis in order to establish "benchmarks" for various types of securities and revise them as appropriate? Would NRSROs use other means to prepare the required comparisons, for example, reviewing previous issuances on a *de novo* basis for every ABS transaction?

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing these burdens. Persons submitting comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should send a copy to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090, with reference to File No. S7–24–10. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–24–10, and be submitted to the Securities and Exchange Commission, Office of Investor Education and Advocacy, 100 F Street, NE., Washington, DC 20549. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

VI. Benefit-Cost Analysis

The Act requires us to implement the requirements discussed in this release. These changes will affect all securitizers of Exchange Act-ABS, including unregistered Exchange Act-ABS, and NRSROs that provide credit ratings on Exchange Act-ABS. Further, the proposed rules would also require historical information with respect to Exchange Act-ABS issued by a securitizer. We also re-propose disclosure requirements with respect to repurchase requests in Regulation AB in order to conform disclosures that we previously proposed under our 2010 ABS Proposals to those required by Section 943 of the Act.

[84] 100 hours × 30 NRSROs.

[85] 100 hours × 30 NRSROs.

[86] The annual average number of registered offerings was 958 and the annual average number of Rule 144A ABS offerings was 716 for an estimated annual average of 1,674 over the period 2004–2009. *See* Section X. of the 2010 ABS Proposing Release. We also add 393 to estimate for offerings under other exemptions that were not within the scope of the 2010 ABS Proposing Release. Thus, in total we use an estimated annual average number of 2,067 ABS offerings for the basis of our PRA burden estimates.

[87] *See Amendments to Rules for Nationally Recognized Statistical Rating Organizations,* SEC Release 34–61050 (November 23, 2009), [74 FR 63832].

[88] 4 reports × 2,067 ABS offerings × 11 hours (1 hour to review disclosures + 10 hours to compare and prepare).

[89] We request comment pursuant to 44 U.S.C. 3506(c)(2)(B).

We are sensitive to benefits and costs of the proposed rules, if adopted. We discuss these benefits and costs below. We request that commentators provide their views along with supporting data as to the benefits and costs of the proposed amendments.

A. Benefits

The proposals seek to fulfill the Act's objective to provide greater transparency regarding the use of representations and warranties in ABS transactions in both the registered and unregistered ABS markets. The recent financial crisis has revealed various problems with existing representation, warranty and enforcement provisions. Poor underwriting standards coupled with unenforceable representations and warranties by securitizers exacerbated investors' losses in ABS.[90] Increasing transparency regarding all demands for repurchases and replacements, including investor demands upon a trustee, will help investors and market participants identify originators with clear underwriting deficiencies. By having better information to judge the origination and underwriting quality of the assets that were previously securitized, investors can make more informed investment decisions.

The proposals may strengthen the incentives for securitizers to improve origination and underwriting standards and to refrain from securitizing assets that do not meet stated representations. In addition, following a securitization, securitizers may have stronger incentives to fulfill repurchase and replacement demands properly. We also propose to limit the scope of the disclosures to outstanding Exchange Act-ABS, and in the initial filing to the last five years of demand, repurchase and replacement history in order to ameliorate costs to securitizers, and still provide information so that investors may identify originators with underwriting deficiencies.

We are proposing to require that the disclosures be filed on EDGAR on new Form ABS–15G. By requiring the proposed Form ABS–15G to be filed on EDGAR, the information proposed to be required would be housed in a central repository that would preserve continuous access to the information. After the initial filing, securitizers would be required to file Form ABS–15G, periodically, on a monthly basis with updated information, so that consistent with the purpose of Section 943 of the Act, an investor may monitor the demand, repurchase and replacement activity across all Exchange Act-ABS issued by a securitizer.

If an ABS is rated, the proposals would require more disclosures by NRSROs about the representations, warranties and enforcement mechanisms available to investors, and how they differ from those of other similar securities. The proposed disclosures will enhance the comparability of information across issuers in a relatively efficient manner by centralizing this disclosure in NRSRO reports. As a result, these disclosures will possibly expand the information available to investors and improve transparency regarding the use of representations and warranties in ABS transactions.

As a result, proposed Rules 15Ga–1 and 17g–7 disclosures are likely to help investors more accurately evaluate and price initial offerings and existing issues of ABS securities and in turn, are likely to improve capital allocation in both the markets for ABS and the original loan markets that back those ABS. Further, the proposed rules would require disclosures regarding the registered and unregistered transactions, thus extending the benefits of disclosure to the unregistered market. While it is difficult to quantify the benefits listed above, they are likely to be substantial in light of the recent financial crisis.

B. Costs

The proposals would implement the Act's requirement on securitizers to disclose the repurchase and replacement demands resulting from breaches of representations and warranties in past ABS transactions initially, for the last five years and then updated disclosures going forward on a monthly basis. We understand that some of the data collection may be costly. In some cases, it may be very difficult to obtain repurchase or replacement records from the distant past.[91] However, we believe that the information about whether an asset had been repurchased or replaced from recent years should be accessible by issuers of outstanding ABS, because the current servicing history of the underlying assets would still be accessible on servicers' systems. However, systems may not currently be in place to track when a demand has been made and therefore, securitizers may incur a significant one-time cost to collect and compile historical information and that cost may vary substantially between securitizers, due to the number of asset classes and number of ABS issued by a securitizer. In addition to the costs on a securitizer, trustees would also incur costs of tracking investor demands upon the trustee. We also expect that the cost of compiling and reporting this information would require a one-time set-up cost to adjust existing systems to compile the initial historical information. Additionally, under the proposal, the securitizer would incur additional costs to satisfy the obligation to file ongoing monthly reports on EDGAR of repurchase demand and repurchase and replacement activity. Filing on EDGAR would require a securitizer to obtain authorization codes and to adhere to formatting instructions. The Act does not specify the periodicity with which information should be provided so that investors may identify originators with clear underwriting deficiencies. However, we believe that monthly reporting would provide a better picture of repurchase activity and a shorter interval might be too burdensome. Also, many ABS pay distributions to investors monthly and likewise, the related transaction agreements, including in unregistered transactions, typically provide for monthly reporting to investors. Therefore, because most securitizers would most likely be accustomed to preparing and providing monthly disclosures, we anticipate that it may be less costly than providing the disclosures at any other interval. However, any securitizers that do not make payments or provide reporting on a monthly basis may find it costlier to prepare the proposed disclosures.

Indirectly, as we discussed in the 2010 ABS Proposing Release, disclosures about an originator's or a sponsor's refusal to repurchase or replace assets put back to them for breach of representations and warranties might create incentives for originators to agree to repurchase or replace such assets even in cases where these assets were not clearly in breach. If investors regard such disclosures as indicative of a willingness to comply with representations and warranties in the future, then originators or sponsors might try to preserve their reputation by taking back assets even when they do not have an obligation to do so. This might create an incentive for sponsors and possibly trustees to ask for repurchase or replacement of poorly performing assets that represent no breach of representations and

[90] *See, e.g.,* N. Timiaros and Aparajita Saha-Bubna "Banks Face Fight Over Mortgage Loan Buybacks," *Wall Street Journal* (Aug. 18, 2010); and Alistair Barr, "Loan repurchases are a $10 billion problem for big banks," (Feb. 3, 2010) available at *http://www.marketwatch.com/story/banks-10-billion-problem-loan-repurchases-2010-02-03.*

[91] *See* discussion in Section II.A. 3.

warranties.[92] However, securitizers may devise other disclosures and mechanisms to solve such problems in the long run, if they occur.

In the aggregate, the proposed requirements are likely to affect unregistered ABS more significantly because traditionally these securities have provided less disclosure. Since, as discussed previously, the Act requires disclosures with respect to all ABS issued by a securitizer, registered and unregistered, the initial and ongoing disclosures may significantly increase the direct and particularly indirect costs of issuing unregistered ABS relative to their historical cost structure. The indirect costs include the possibility of revealing information about the quality of assets to competitors. A possible effect of these requirements is that such issuers may look towards alternative forms of financing. Given that those issuers have historically preferred ABS issues, they may consider more expensive and less efficient forms of financing. Some of these incremental financing costs are likely to be passed to consumers and other borrowers whose loans make up the underlying pools backing the ABS. While it is difficult to quantify such incremental costs, researchers have estimated that securitization has generally been beneficial in banking and mortgage industries. However, other factors may be more determinative in deciding what form of financing a business will pursue.[93]

The proposals would also require NRSROs to disclose in any report accompanying a credit rating for an ABS transaction the representations, warranties and enforcement mechanisms available to investors and how they differ from those of other similar securities. NRSROs often issue a pre-sale report for ABS transactions that includes a preliminary credit rating as well as a summary of important features of a transaction; however, they do not usually provide disclosure of how representations and warranties would differ from other similar securities. We anticipate that in order to fulfill this requirement, NRSROs will incur a direct cost to review previous issuances both on an initial and an ongoing basis. In connection with that review, they may establish "benchmarks" for various types of securities and revise them as appropriate. To the extent that they have not already established such systems, we expect that an NRSRO would incur initial and ongoing costs to set up systems to collect, maintain and analyze previous issuances to establish such benchmarks as well as an ongoing cost to review the benchmarks to ensure that they remain appropriate. An NRSRO may pass those costs onto the issuers and underwriters by building them into the costs it charges to provide a credit rating, which in turn could be passed on as an indirect cost onto investors. We are not prescribing how an NRSRO must fulfill its responsibility to compare the terms of a deal to those of similar securities.

We believe that the proposed requirements are necessary to implement the purposes of the Act. For purposes of the Paperwork Reduction Act, we have estimated that the proposed paperwork/disclosure requirements on securitizers would result in an approximate burden of 102,060 internal hours and external cost of $13,608,000 paperwork/disclosure and the proposed requirement on NRSROs would result in an approximate burden of 96,948 internal hours. Additionally, we believe that the re-proposed requirements in Regulation AB on issuers would not impose a significant additional burden on asset-backed issuers because the disclosures would have already been prepared for purposes of filing on Form ABS–15G.

C. Request for Comment

We seek comments and empirical data on all aspects of this Benefit-Cost Analysis including identification and quantification of any additional benefits and costs. Specifically, we ask the following:

39. Are there other more cost-effective ways securitizers can provide the disclosure of fulfilled and unfulfilled repurchase requests consistent with the requirements of Section 943 of the Act?

VII. Consideration of Burden on Competition and Promotion of Efficiency, Competition and Capital Formation

Section 23(a) of the Exchange Act[94] requires the Commission, when making rules and regulations under the Exchange Act, to consider the impact a new rule would have on competition. Section 23(a)(2) prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The proposed amendments implement the Act and the re-proposals amend Regulation AB in order to conform the disclosures that would be required under our 2010 ABS Proposals to those required by Section 943 of the Act. The amendments are intended to increase transparency regarding the use of representations and warranties in asset-backed securities transactions. We anticipate that these proposals would enhance the proper functioning of the capital markets by providing investors with disclosures about the representations, warranties and enforcement mechanisms available to them and by giving investors greater insight into whether underlying pool assets met stated underwriting guidelines across registered and unregistered transactions of a securitizer. Because investors would be able to more easily understand the representations, warranties and enforcement mechanisms available to them and identify originators with better underwriting criteria, competition in the ABS markets should increase.

We request comment on whether the proposed amendments, if adopted would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Commentators are requested to provide empirical data and other factual support for their views if possible.

Section 2(b) of the Securities Act[95] and Section 3(f) of the Exchange Act[96] require the Commission, when engaging in rulemaking that requires it to consider whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action would promote efficiency, competition, and capital formation. The proposed amendments would enhance our reporting requirements. The purpose of the amendments is to increase

[92] *See* Section XI.C.2. of the 2010 ABS Proposing Release. However, in certain situations, it may have the opposite effect, where the threat of such a disclosure requirement relating to an originator could induce a sponsor to be more reticent in pursuing repurchase claims where the originator may be affiliated with the sponsor. A sponsor may also be worried that a large number of successful repurchase claims could indicate that its initial due diligence, or the originator's loan quality, was poor. *See* letter from Commonwealth of Massachusetts Attorney General in response to the 2010 ABS Proposing Release.

[93] *See generally,* Kashyap, A. and J. Stein (2000) "What Do a Million Observations on Banks Say About the Transmission of Monetary Policy," The American Economic Review, Vol. 90, No. 3, at 407–428 and Loutskina, E. and P. Strahan (2009) "Securitization and the declining impact of bank financial condition on loan supply: Evidence from mortgage originations," The Journal of Finance, Vol. 64, No. 2, at 861–889.

[94] 15 U.S.C. 78w(a).

[95] 15 U.S.C. 77b(b).

[96] 15 U.S.C. 78c(f).

transparency regarding the use of representations and warranties in asset-backed securities transactions. This should improve investors' ability to make informed investment decisions. Informed investor decisions generally promote market efficiency and capital formation.

However, the proposals could have indirect adverse consequences by changing the willingness of issuers to access securitization markets. If the required disclosures results in revealing information that would benefit competitors, issuers may instead prefer to use other funding sources that do not require such public disclosures.

Finally, proposed Rule 17g–7 would require NRSROs to describe in any report accompanying a credit rating how the representations, warranties and enforcement mechanisms of the rated ABS differ from the representations, warranties and enforcement mechanisms in issuances of similar securities. We believe that the proposed additional disclosures and, especially, the required comparisons of the representations, warranties, and enforcement measures in a given ABS transaction to those available in similar transactions may provide an impetus to the development of more standardized representations, warranties, and enforcement mechanisms across the ABS markets, which is likely to benefit the efficiency of these markets.

We request comment on whether the proposed amendments, if adopted, would promote efficiency, competition, and capital formation. Commentators are requested to provide empirical data and other factual support for their views if possible.

VIII. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996,[97] a rule is "major" if it has resulted, or is likely to result in:

- An annual effect on the U.S. economy of $100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment, or innovation.

We request comment on whether our proposed amendments would be a "major rule" for purposes of the Small Business Regulatory Enforcement Fairness Act. We solicit comment and empirical data on:

- The potential effect on the U.S. economy on an annual basis;
- Any potential increase in costs or prices for consumers or individual industries; and
- Any potential effect on competition, investment, or innovation.

IX. Regulatory Flexibility Act Certification

The Commission hereby certifies pursuant to 5 U.S.C. 605(b) that the proposals contained in this release, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposals relate to the registration, disclosure and reporting requirements for asset-backed securities under the Act, the Securities Act and the Exchange Act. Securities Act Rule 157[98] and Exchange Act Rule 0–10(a)[99] defines an issuer, other than an investment company, to be a "small business" or "small organization" if it had total assets of $5 million or less on the last day of its most recent fiscal year. As the depositor and issuing entity are most often limited purpose entities in an ABS transaction, we focused on the sponsor in analyzing the potential impact of the proposals under the Regulatory Flexibility Act. Based on our data, we only found one sponsor that could meet the definition of a small broker-dealer for purposes of the Regulatory Flexibility Act.[100] With respect to our proposals related to disclosures by an NRSRO, currently there are two NRSROs that are classified as "small" entities for purposes of the Regulatory Flexibility Act. As noted above, we are not prescribing how an NRSRO must fulfill its responsibility to compare the terms of a deal to those of similar securities. Accordingly, the Commission does not believe that those proposals, if adopted, would have a significant economic impact on a substantial number of small entities.

X. Statutory Authority and Text of Proposed Rule and Form Amendments

We are proposing the new rules, forms and amendments contained in this document under the authority set forth in Section 943 of the Act, Sections 5, 6, 7, 10, 19(a), and 28 of the Securities Act and Sections 3(b), 12, 13, 15, 15E, 17, 23(a), 35A and 36 of the Exchange Act.

List of Subjects in 17 CFR Parts 229, 240 and 249

Reporting and recordkeeping requirements, Securities.

For the reasons set out above, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

1. The authority citation for part 229 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 777iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l,* 78m, 78n, 78o, 78u–5, 78w, 78*ll,* 78mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11, and 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

2. Amend § 229.1104 by adding paragraph (e) to read as follows:

§ 229.1104 (Item 1104) Sponsors.

* * * * *

(e) *Repurchases and replacements.* (1) If the underlying transaction agreements provide a covenant to repurchase or replace an underlying asset for breach of a representation or warranty, provide the information required by Rule 15Ga–1(a) (17 CFR 240.15Ga–1(a)) concerning all assets originated or sold by the sponsor that were subject of a demand to repurchase or replace for breach of the representations and warranties concerning the pool assets for all outstanding asset-backed securities (as that term is defined in Section 3(a)(77) of the Securities Exchange Act of 1934) where the underlying transaction agreements included a covenant to repurchase or replace an underlying asset of the same asset class held by non-affiliates of the sponsor, within the prior three years in the body of the prospectus.

(2) Include a reference to the most recent Form ABS–15G filed by the securitizer (as that term is defined in Section 15G(a) of the Securities Exchange Act of 1934) and disclose the CIK number of the securitizer.

3. Amend § 229.1121 by adding paragraph (c) to read as follows:

§ 229.1121 (Item 1121) Distribution and pool performance information.

* * * * *

(c) *Repurchases and replacements.* (1) Provide the information required by Rule 15Ga–1(a) (17 CFR 240.15Ga–1(a)) concerning all assets of the pool that were subject of a demand to repurchase or replace for breach of the representations and warranties pursuant to the transaction agreements.

[97] Public Law 104–121, Title II, 110 Stat. 857 (1996).

[98] 17 CFR 230.157.

[99] 17 CFR 240.0–10(a).

[100] This is based on data from Asset-Backed Alert.

(2) Include a reference to the most recent Form ABS–15G (17 CFR 249.1300) filed by the securitizer (as that term is defined in Section 15G(a) of the Securities Exchange Act of 1934) and disclose the CIK number of the securitizer.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

4. The authority citation for part 240 is amended by adding authorities for § 240.15Ga–1 and § 240.17g–7 to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78 *l,* 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78 *ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.;* and 18 U.S.C. 1350 and 12 U.S.C. 5221(e)(3), unless otherwise noted.

* * * * *

Section 240.15Ga–1 is also issued under sec. 943, Pub. L. No. 111–203, 124 Stat. 1376.

* * * * *

Section 240.17g–7 is also issued under sec. 943, Pub. L. No. 111–203, 124 Stat. 1376.

* * * * *

5. Add § 240.15Ga–1 to read as follows:

§ 240.15Ga–1 Repurchases and replacements relating to asset-backed securities.

(a) *General.* With respect to any asset-backed security (as that term is defined in Section 3(a)(77) of the Securities Exchange Act of 1934) for which the underlying transaction agreements contain a covenant to repurchase or replace an underlying asset for breach of a representation or warranty, then the securitizer (as that term is defined in Section 15G(a) of the Securities Exchange Act of 1934) shall disclose fulfilled and unfulfilled repurchase requests across all trusts by providing the information required in paragraph (1) concerning all assets originated or sold by the securitizer that were subject of a demand to repurchase or replace for breach of the representations and warranties concerning the assets for all outstanding asset-backed security held by non-affiliates of the securitizer.

Name of issuing entity	Check if registered	Name of originator	Assets that were subject of demand			Assets that were repurchased or replaced			Assets that were not repurchased or replaced			Assets pending repurchase or replacement		
(a)	(b)	(c)	(#) (d)	($) (e)	(% of pool) (f)	(#) (g)	($) (h)	(% of pool) (i)	(#) (j)	($) (k)	(% of pool) (l)	(#) (m)	($) (n)	(% of pool) (o)
Asset Class X														
Issuing Entity A CIK #	X	Originator 1												
		Originator 2												
Issuing Entity B		Originator 3												
Total			#	$		#	$		#	$		#	$	
Asset Class Y														
Issuing Entity C		Originator 2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
		Originator 3	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Issuing Entity DCIK #	X	Originator 1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total			#	$		#	$		#	$		#	$	

(1) The table shall:

(i) Disclose the asset class and group the issuing entities by asset class (column (a)).

(ii) Disclose the name of the issuing entity (as that term is defined in Item 1101(f) of Regulation AB (17 CFR 229.1101(f)) of the asset-backed securities. List the issuing entities in order of the date of formation (column (a)).

(iii) For each named issuing entity, indicate by check mark whether the transaction was registered under the Securities Act of 1933 (column (b))

(iv) Disclose the name of the originator of the underlying assets (column (c)).

(v) Disclose the number, outstanding principal balance and percentage by principal balance of assets that were subject of demand to repurchase or replace for breach of representations and warranties (columns (d) through (f)).

Instruction to paragraph (a)(1)(v): If a securitizer requested and was unable to obtain all information with respect to investor demands upon a trustee that occurred prior to [effective date of the final rule], so state by footnote. In this case, also state that the disclosures do not contain investor demands upon a trustee made prior to [effective date of the final rule].

(vi) Disclose the number, outstanding principal balance and percentage by principal balance of assets that were repurchased or replaced for breach of representations and warranties (columns (g) through (i)).

(vii) Disclose the number, outstanding principal balance and percentage by principal balance of assets that were not repurchased or replaced for breach of representations and warranties (columns (j) through (l)).

(viii) Disclose the number, outstanding principal balance and percentage by principal balance of assets that are pending repurchase or replacement for breach of representations and warranties (columns (m) through (o)).

Instruction to paragraph (a)(1)(viii): Indicate by footnote and provide narrative disclosure of the reasons why any repurchase or replacement is pending. For example, if pursuant to the terms of a transaction agreement, assets have not been repurchased or replaced pending the expiration of a cure period, indicate by footnote.

(ix) Provide totals by asset class for columns that require number of assets and principal amounts (columns (d), (e), (g), (h), (j), (k), (m) and (n)).

(2) [Reserved]

(b) If a securitizer has filed all the disclosures required in order to meet the obligations under paragraph (a) of this section, which would include disclosures of the activity of affiliated securitizers, those affiliated securitizers are not required to separately provide and file the same disclosures.

(c) The disclosures in paragraph (a) of this section shall be provided by a securitizer:

(1) Initially, with respect to the five year period immediately preceding the date of filing, as of the end of the preceding month, by any securitizer that issues an asset-backed security, or

organizes and initiates an asset-backed securities transaction by selling or transferring an asset, either directly or indirectly, including through an affiliate, to the issuer, at the time the securitizer, or an affiliate commences its first offering of the asset-backed securities after [effective date of the final rule], if the underlying transaction agreements provide a covenant to repurchase or replace an underlying asset for breach of a representation or warranty.

(2) Periodically, for a securitizer which was required to provide the information required pursuant to paragraph (c)(1) of this section, as of the end of each calendar month, to be filed not later than 15 calendar days after the end of such calendar month. Information is not required for the time prior to that specified in paragraph (c)(1) of this section.

(3) Except that, if a securitizer has no asset-backed securities outstanding held by non-affiliates, the duty under paragraph (c)(2) of this section to file periodically the disclosures required by paragraph (a) shall be terminated immediately upon filing a notice on Form ABS–15G (17 CFR 249.1300).

6. Add § 240.17g–7 to read as follows:

§ 240.17g–7 Report of representations and warranties.

Each nationally recognized statistical rating organization shall include in any report accompanying a credit rating with respect to an asset-backed security (as that term is defined in Section 3(a)(77) of the Securities Exchange Act of 1934) a description of:

(a) The representations, warranties and enforcement mechanisms available to investors; and

(b) How they differ from the representations, warranties and enforcement mechanisms in issuances of similar securities.

Note to § 240.17g–7: For the purposes of this requirement, a "credit rating" includes any expected or preliminary credit rating issued by a nationally recognized statistical rating organization.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for part 249 is amended by adding an authority for § 249.1300 to read as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

Section 249.1300 is also issued under sec. 943, Pub. L. No. 111–203, 124 Stat. 1376.

* * * * *

8. Add Subpart O and Form ABS—15G (referenced in § 249.1300) to Part 249 to read as follows:

Subpart O–Forms for Securitizers of Asset-Backed Securities

§ 249.1300 Form ABS–15G, Asset-backed securitizer report pursuant to Section 15G of the Securities Exchange Act of 1934.

This form shall be used for reports of information required by Rule 15Ga–1 (§ 240.15Ga–1 of this chapter).

Note: The text of Form ABS–15G does not, and this amendment will not, appear in the Code of Federal Regulations.

United States Securities and Exchange Commission, Washington, DC 20549

Form ABS–15G

Asset-Backed Securitizer Report Pursuant to Section 15G of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) _____

Commission File Number of securitizer: _____

Central Index Key Number of securitizer: _____

_____

Name and telephone number, including area code, of the person to contact in connection with this filing

GENERAL INSTRUCTIONS

A. Rule as to Use of Form ABS–15G.

This form shall be used to comply with the requirements of Rule 15Ga–1 under the Exchange Act (17 CFR 240.15Ga–1).

B. Events To Be Reported and Time for Filing of Reports.

Forms filed under Rule 15Ga–1. In accordance with Rule 15Ga–1, file the information required by Part I in accordance with Item 1.01, Item 1.02, or Item 1.03, as applicable. If the filing deadline for the information occurs on a Saturday, Sunday or holiday on which the Commission is not open for business, then the filing deadline shall be the first business day thereafter.

C. Preparation of Report.

This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of Rule 12b–12 (17 CFR 240.12b–12). The report shall contain the number and caption of the applicable item, but the text of such item may be omitted, provided the answers thereto are prepared in the manner specified in Rule 12b–13 (17 CFR 240.12b–13). All items that are not required to be answered in a particular report may be omitted and no reference thereto need be made in the report. All instructions should also be omitted.

D. Signature and Filing of Report.

1. *Forms filed under Rule 15Ga–1.* Any form filed for the purpose of meeting the requirements in Rule 15Ga–1 must be signed by the senior officer in charge of securitization of the securitizer.

2. *Copies of report.* If paper filing is permitted, three complete copies of the report shall be filed with the Commission.

INFORMATION TO BE INCLUDED IN THE REPORT

REPRESENTATION AND WARRANTY INFORMATION

Item 1.01 Initial Filing of Rule 15Ga–1 Representations and Warranties Disclosure

If any securitizer (as that term is defined in Section 15G(a) of the Securities Exchange Act of 1934), issues an asset-backed security, (as that term is defined in Section 3(a)(77) of the Securities Exchange Act of 1934), or organizes and initiates an asset-backed securities transaction by selling or transferring an asset, either directly or indirectly, including through an affiliate, to the issuer, provide the disclosures required by Rule 15Ga–1 (17 CFR 240.15Ga–1) at the time the securitizer, or an affiliate commences its first offering of the asset-backed securities after [effective date of the final rule], if the underlying transaction agreements contain a covenant to repurchase or replace an underlying asset for breach of a representation or warranty.

Item 1.02 Periodic Filing of Rule 15Ga–1 Representations and Warranties Disclosure

Each securitizer that was required to provide the information required by Item 1.01 of this form, shall provide the disclosures required by Rule 15Ga–1 (17 CFR 240.15Ga–1) as of the end of each calendar month, to be filed not later than 15 calendar days after the end of such calendar month.

Item 1.03 Notice of Termination of Duty to File Reports under Rule 15Ga–1

If any securitizer has no asset-backed securities outstanding (as that term is defined in Section 3(a)(77) of the Securities Exchange Act of 1934) held by non-affiliates, provide the date of the last payment on the last asset-backed security outstanding that was issued by or issued by an affiliate of the securitizer.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the reporting entity has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

(Securitizer) _____

Date _____

(Signature)* _____

* Print name and title of the signing officer under his signature.

* * * * *

By the Commission.

Dated: October 4, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–25361 Filed 10–12–10; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 1

RIN 1505–AC27

Privacy Act of 1974; Proposed Implementation

AGENCY: Departmental Offices, Treasury.

ACTION: Proposed rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, the Department of the Treasury gives notice of a proposed amendment to update its Privacy Act regulations, and to add an exemption from certain provisions of the Privacy Act for a system of records related to the Office of Foreign Assets Control (OFAC).

DATES: Comments must be received no later than November 12, 2010.

ADDRESSES: Comments should be sent to: Assistant Director, Disclosure Services, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. The Department will make such comments available for public inspection and copying in the Department's Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622–0990 (not a toll free number). All comments, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Disclosure Services, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, tel.: 202–622–2510 (not a toll free number), or Chief Counsel (Foreign Assets Control), Office of General Counsel, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, tel.: 202–622–2410 (not a toll free number).

SUPPLEMENTARY INFORMATION: In reviewing Treasury regulations implementing the Privacy Act, the Department found that Executive Order 11652 listed in Section 1.26(g)(6)(ii)(A) has been superseded and needs to be updated. This section is being amended to reference Executive Orders 12958, 13526, or successor or prior Executive Orders as may be necessary.

Under 5 U.S.C. 552a(k)(1), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is subject to the provisions of 5 U.S.C. 552(b)(1), which regards matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

To the extent that systems of records contain information subject to the provisions of 5 U.S.C. 552(b)(1), the Department of the Treasury proposes to exempt the systems of records from the following provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1):

5 U.S.C. 552a(c)(3),
5 U.S.C. 552a(d)(1), (2), (3), and (4),
5 U.S.C. 552a(e)(1),
5 U.S.C. 552a(e)(4)(G), (H), and (I), and
5 U.S.C. 552a(f).

The reason for invoking the exemption is to protect material authorized to be kept secret in the interest of national defense or foreign policy pursuant to Executive Orders 12958, 13526, or successor or prior Executive Orders.

This document also creates a new table in paragraph 31 CFR 1.36(e)(1) under the new heading designated as "(i) Departmental Offices:". The system of records entitled "DO .120—Records Related to Office of Foreign Assets Control Economic Sanctions" will be added to the table under (i). The current heading "Financial Crimes Enforcement Network:" and the associated table is designated as "(ii)."

The Department of the Treasury has published separately in the **Federal Register** the notice of a consolidated system of records related to OFAC on October 6, 2010, at 75 FR 61853.

This proposed rule is not a "significant regulatory action" under Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, it is hereby certified that this rule will not have significant economic impact on a substantial number of small entities. The term "small entity" is defined to have the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction," as defined in the RFA.

The proposed regulation, issued under section 522a(k) of the Privacy Act, is to exempt certain information in the above systems of records within the Department from certain provisions under the Privacy Act, including those regarding notification, access to a record, and amendment of a record by individuals who are citizens of the United States or an alien lawfully admitted for permanent residence. Inasmuch as the Privacy Act rights are personal and apply only to U.S. citizens or an alien lawfully admitted for permanent residence, small entities as defined in the RFA are not provided rights under the Privacy Act and are outside the scope of this regulation.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1, subpart C of title 31 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a, as amended.

Subpart C—Privacy Act

2. Section 1.26 is amended by revising the first sentence in paragraph (g)(6)(ii)(A) to read as follows:

§ 1.26 Procedures for notification and access to records pertaining to individuals—format and fees for request for access.

* * * * *

(g) * * *

(6) * * *

(ii) * * *

(A) Requests for information classified pursuant to Executive Orders 12958, 13526, or successor or prior Executive Orders require the responsible component of the Department to review

the information to determine whether it continues to warrant classification pursuant to an Executive Order. * * *

* * * * *

3. Section 1.36 is amended by revising paragraphs (e) and (f) to read as follows:

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 522a and this part.

* * * * *

(e) *Specific exemptions under 5 U.S.C. 552a(k)(1).* (1) Under 5 U.S.C. 552a(k)(1), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act to the extent that the system contains information subject to the provisions of 5 U.S.C. 552(b)(1). This paragraph applies to the following systems of records maintained by the Department of the Treasury:

(i) Departmental Offices:

Number	System name
DO .120	Records Related to Office of Foreign Assets Control Economic Sanctions.

(ii) Financial Crimes Enforcement Network:

Number	System name
FinCEN .001	FinCEN Database.

(2) The Department of the Treasury hereby exempts the systems of records listed in paragraph (e)(1) of this section from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(1): 5 U.S.C. 552a(c)(3), 5 U.S.C. 552a(d)(1), (2), (3), and (4), 5 U.S.C. 552a(e)(1), 5 U.S.C. 552a(e)(4)(G), (H), and (I), and 5 U.S.C. 552a(f).

(f) *Reasons for exemptions under 5 U.S.C. 552a(k)(1).* The reason for invoking the exemption is to protect material authorized to be kept secret in the interest of national defense or foreign policy pursuant to Executive Orders 12958, 13526, or successor or prior Executive Orders.

* * * * *

Dated: July 16, 2010.

Melissa Hartman,

Acting Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2010–25756 Filed 10–12–10; 8:45 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 26

[EPA–HQ–OPP–2010–0785; FRL–8850–2]

RIN 2070–AJ76

Revisions to EPA's Rule on Protections for Subjects in Human Research Involving Pesticides; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: This document notifies the public that the Administrator of EPA has forwarded to the Secretary of Agriculture a draft proposed rule as required by section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). As described in the Agency's semi-annual Regulatory Agenda, the draft proposed rule would amend the portions of EPA's rules for the protection of human subjects of research that apply to third parties who conduct or support research for pesticides involving intentional exposure of human subjects, and to persons who submit the results of human research for pesticides to EPA. EPA agreed to propose these amendments as a result of a settlement agreement resolving a judicial challenge to the promulgation of these rules in 2006, and is now seeking comments on these draft proposed amendments from the Secretary of Agriculture. The draft proposed amendments would clarify the applicability of the rules to human testing for pesticides submitted to EPA under any statute, would disallow consent by a legally authorized representative of participants in pesticide studies who cannot consent for themselves, and would identify specific considerations to be addressed in EPA science and ethics reviews of proposed and completed human research for pesticides, based on the recommendations of the National Academy of Sciences and on the Nuremberg Code.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0785. All documents in the docket are listed in the docket index available in *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kelly Sherman, Immediate Office of the Director (7501P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–8401; fax number: (703) 308–4776; e-mail address: *sherman.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

This action is directed to the public in general. It simply announces the submission of a draft proposed rule to the U.S. Department of Agriculture (USDA) and does not otherwise affect any specific entities. This action may, however, be of particular interest to pesticide registrants (NAICS code 325320) who sponsor or conduct human research for pesticides, and to other entities that sponsor or conduct human research for pesticides (NAICS code 541710). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. What action is EPA taking?

Section 25(a)(2) of FIFRA requires the Administrator to provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days before signing it for publication in the **Federal Register**. The draft proposed rule is not available to the public until after it has been signed by EPA. If the Secretary comments in writing regarding the draft proposed rule within 30-days after receiving it, the Administrator shall include the comments of the Secretary and the Administrator's response to those comments in the proposed rule when it is published in the **Federal Register**. If the Secretary does not comment in writing within 30 days after receiving

the draft proposed rule, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30-day period.

III. Do any statutory and executive order reviews apply to this notification?

No. This document is not a proposed rule; it is merely a notification of submission to the Secretary of Agriculture. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Part 26

Environmental protection, Human research, Pesticides.

Dated: October 4, 2010.

Steven Bradbury,

Director, Office of Pesticide Programs.

[FR Doc. 2010–25787 Filed 10–12–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85, 86, and 600

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 531 and 533

[FRL–9212–4]

RIN 2127–AK79

2017 and Later Model Year Light Duty Vehicle GHG Emissions and CAFE Standards; Notice of Intent

AGENCIES: Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of intent to conduct a joint rulemaking.

SUMMARY: On May 21, 2010, President Obama issued a Presidential Memorandum requesting that the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA), on behalf of the Department of Transportation develop, through notice and comment rulemaking, a coordinated National Program under the Clean Air Act (CAA) and the Energy Policy and Conservation Act (EPCA), as amended by the Energy Independence and Security Act (EISA) to improve fuel efficiency and to reduce greenhouse gas emissions of light-duty vehicles for model years 2017–2025. President Obama requested that the agencies issue a Notice of Intent to issue a proposed rule that announces plans for setting stringent fuel economy and greenhouse gas emissions standards for light-duty vehicles of model year 2017 and beyond. This joint Notice describes the agencies' initial assessment of potential levels of stringency for a National Program for model years 2017–2025, and describes additional work that the agencies will undertake over the next two months to refine this assessment further. This Notice fulfills that request and discusses the agencies' plans to issue a Supplemental Notice of Intent by November 30, 2010 that will describe plans for the National Program, including an updated analysis of potential GHG and fuel economy standards for model years 2017–2025. This joint Notice also announces the plans by the two agencies to propose such a coordinated National Program by the fall of 2011.

DATES: *Comments:* In order for comments to be most helpful to this ongoing process of ultimately developing a proposed rulemaking, the agencies encourage parties wishing to comment on this Notice to submit their comments by October 31, 2010. See the **SUPPLEMENTARY INFORMATION,** Section I (Introduction), for more information about the rulemaking process.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–0799 and/or NHTSA–2010–0131, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* EPA: (202) 566–1741; NHTSA: (202) 493–2251.
- *Mail:*
  - *EPA:* Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention: Docket ID No. EPA–HQ–OAR–2010–0799.
  - *NHTSA:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:*
  - *EPA:* EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004, Attention: Docket ID No. EPA–HQ–OAR–0799. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.
  - *NHTSA:* West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal Holidays.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–0799 and/or Docket ID No. NHTSA–2010–0131. NHTSA and EPA request comment on all aspects of this joint Notice. *See* the **SUPPLEMENTARY INFORMATION** section on "Public Participation" for more information about submitting written comments.

Docket: All documents listed in the dockets are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the following locations: EPA: EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744. NHTSA: Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

EPA: Tad Wysor, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4332; fax number: (734) 214–4816; e-mail address: *wysor.tad@epa.gov* or Assessment and Standards Division Hotline, telephone number (734) 214–4636; e-mail address *asdinfo@epa.gov.* *DOT/NHTSA:* Rebecca Yoon, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366–2992.

SUPPLEMENTARY INFORMATION:

Public Participation

NHTSA and EPA request comment on all aspects of this Notice and the accompanying Interim Joint Technical Assessment Report discussed below.

This section describes how you can participate in this process.

How do I prepare and submit comments?

For the convenience of all parties, comments submitted to the EPA docket will be considered comments submitted to the NHTSA docket, and vice versa. Therefore, the public only needs to submit comments to either one of the two agency dockets. Comments that are submitted for consideration by one agency should be identified as such, and comments that are submitted for consideration by both agencies should be identified as such.

Further instructions for submitting comments to either the EPA or NHTSA docket are described below.

EPA: Direct your comments to Docket ID No EPA–HQ–OAR–2010–0799. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.[1] Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

NHTSA: Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket number NHTSA–2010–0131 in your comments. Your comments must not be more than 15 pages long. NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using the Optical Character Recognition (OCR) process, thus allowing the agencies to search and copy certain portions of your submissions. Please note that pursuant to the Data Quality Act, in order for the substantive data to be relied upon and used by the agencies, it must meet the information quality standards set forth in the OMB and Department of Transportation (DOT) Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://www.dot.gov/dataquality.htm.*

Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

How can I be sure that my comments were received?

NHTSA: If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

Any confidential business information (CBI) submitted to one of the agencies will also be available to the other agency. However, as with all public comments, any CBI information only needs to be submitted to either one of the agencies' dockets and it will be available to the other. Following are specific instructions for submitting CBI to either agency.

EPA: Do not submit CBI to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

NHTSA: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given below under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation.

In addition, you should submit a copy from which you have deleted the claimed confidential business information to the Docket by one of the methods set forth above.

How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (*e.g.*, the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. You may also read the materials at the EPA Docket Center or NHTSA Docket Management Facility by going to the

[1] This statement constitutes notice to commenters pursuant to 40 CFR 2.209(c) that EPA will share confidential information received with NHTSA unless commenters specify that they wish to submit their CBI only to EPA and not to both agencies.

street addresses given above under **ADDRESSES**.

I. Introduction

This joint Notice announces plans by the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA), on behalf of the Department of Transportation, to propose stringent Federal greenhouse gas and fuel economy standards for light-duty vehicles for the 2017–2025 model years (MY) as part of a coordinated National Program. This rulemaking will build on the first phase of the National Program for fuel economy and greenhouse gas (GHG) emissions standards, for MY 2012–2016 vehicles, which was issued in April 2010.[2] This Notice of Intent does not propose specific standards, but along with the accompanying Interim Joint Technical Assessment Report (TAR) discussed later in this Notice, is an important step in the process that will lead to a formal proposal.

NHTSA and EPA welcome comment on all aspects of this Notice and the accompanying TAR. Although this Notice discusses important initial assessments performed by the agencies, it also discusses the significant additional work that must be done to provide the agencies with information to support a joint Notice of Proposed Rulemaking (NPRM). EPA and NHTSA will continue to seek input from a broad range of stakeholders over the coming months, and we will continue to work closely with the California Air Resources Board (CARB) in order to ensure the continuation of a National Program. In an effort to guide the eventual development of the NPRM, over the next two months, EPA and NHTSA, working closely with CARB, will continue to analyze potential GHG and fuel economy standards for MYs 2017–2025 by developing and reviewing additional technical data and information and by considering additional stakeholder input. Based on this additional work, EPA and NHTSA expect to issue, by November 30, 2010, a Supplemental Notice of Intent that will describe further design elements for the National Program and present an updated analysis of potential stringencies for model years 2017–2025 standards for GHGs and fuel economy. A principal goal of the Supplemental Notice will be to narrow the range of potential stringencies for the future proposed standards, as well as to reflect new technical data and information and, as appropriate, further analysis supplementing the Interim Joint TAR. While the agencies do not intend to issue another TAR we do plan to do additional analysis and make it available as a part of the Supplemental Notice of Intent. In recent months, the agencies have had important discussions with many individual automobile manufacturers and other stakeholders, and our intention is to continue such discussions. In order for comments to be most helpful to this ongoing process, the agencies encourage parties wishing to comment at this stage of the process to submit their comments by the end of October 2010. The May 21, 2010 Presidential Memorandum discussed below called for EPA and NHTSA to include in this Notice of Intent a "schedule for setting those standards as expeditiously as possible, consistent with providing sufficient leadtime to vehicle manufacturers." The agencies plan to issue a joint Notice of Proposed Rulemaking (NPRM) by September 30, 2011 and a Final Rule by July 31, 2012.

As with any notice-and-comment rulemaking process, the agencies will provide full opportunity for the public to participate in the rulemaking process, consistent with the Administrative Procedure Act, other applicable law, and Administration policies on openness and transparency in government.[3] EPA and NHTSA have established dockets to receive such information: EPA's Docket is located at Docket ID No. EPA–HQ–OAR–2010–0799 and NHTSA's docket is located at Docket ID No. NHTSA–2010–0131. The **ADDRESSES** section at the beginning of this Notice provides several methods for submitting information into these dockets.

A. President's May 21, 2010, Memorandum

On May 21, 2010, President Obama issued a Presidential Memorandum requesting that the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA), on behalf of the Department of Transportation, take "** * * additional coordinated steps * * * to produce a new generation of clean vehicles*." He specifically requested that the agencies develop "*, * * * a coordinated national program under the CAA [Clean Air Act] and the EISA [Energy Independence and Security Act of 2007] to improve fuel efficiency and to reduce greenhouse gas emissions of passenger cars and light-duty trucks of model years 2017–2025*."[4] The President recognized that by acting expeditiously, our country could take a leadership role in addressing the global challenges of improving energy security and reducing greenhouse gas pollution, stating that "*America has the opportunity to lead the world in the development of a new generation of clean cars and trucks through innovative technologies and manufacturing that will spur economic growth and create high-quality domestic jobs, enhance our energy security, and improve our environment*."

As a first step in the process, the President requested EPA and NHTSA to "*[t]ake all measures consistent with law to issue by September 30, 2010, a Notice of Intent to Issue a Proposed Rule that announces plans for setting stringent fuel economy and greenhouse gas emissions standards for light-duty vehicles of model year 2017 and beyond, including plans for initiating joint rulemaking and gathering any additional information needed to support regulatory action. The Notice should describe the key elements of the program that the EPA and the NHTSA intend jointly to propose, under their respective statutory authorities, including potential standards that could be practicably implemented nationally for the 2017–2025 model years and a schedule for setting those standards as expeditiously as possible, consistent with providing sufficient lead time to vehicle manufacturers*."

The Presidential Memorandum also called on the agencies, working with the State of California, to develop a technical assessment to inform a potential rulemaking. The EPA, NHTSA, and CARB have completed this assessment, which is discussed in Section I.E below.

B. Background on the MY 2012–2016 National Program

On April 1, 2010, NHTSA and EPA issued joint final rules establishing standards for GHG emissions and fuel economy for MYs 2012–2016 passenger cars, light-duty-trucks, and medium-duty passenger vehicles ("light-duty vehicles"), collectively referred to as the National Program.[5] The agencies

[2] *See* 75 FR 25324 (May 7, 2010).

[3] Upon publication of the NPRM, the agencies will open a public comment period for receiving written comments and will hold at least one joint public hearing to receive oral comments. We will announce all of these avenues for public involvement in the **Federal Register** notice announcing the NPRM and we will post this information on each agency's Web site associated with this rulemaking.

[4] The Presidential Memorandum is found at: *http://www.whitehouse.gov/the-press-office/presidential-memorandum-regarding-fuel-efficiency-standards.*

[5] The joint final rules were published at 75 FR 25324 (May 7, 2010).

concluded that the automobile industry will achieve the substantial benefits of that first phase of the National Program based on technology that is already being commercially applied in many cases and that can be incorporated in these future model year vehicles at a reasonable expense and with benefits far in excess of costs. This initial phase of the National Program will result in large fuel savings and large reductions in GHG emissions and oil use, and thus in increased energy security and reductions in the rate of climate change. This joint rulemaking was consistent with the President's announcement on May 19, 2009 of a National Fuel Efficiency Policy for establishing consistent, harmonized, and streamlined requirements that would reduce GHG emissions and improve fuel economy for new cars and light trucks sold in the United States.

In this recent rulemaking, EPA and NHTSA established two separate but harmonized sets of standards, each under its respective statutory authorities.[6] The standards for both agencies begin with model year 2012, with standards increasing in stringency through model year 2016. EPA set national CO_2 emissions standards for light-duty vehicles under section 202(a) of the Clean Air Act (CAA), and NHTSA set corporate average fuel economy (CAFE) standards in accordance with the Energy Policy and Conservation Act (EPCA), as amended by the Energy Independence and Security Act of 2007 (EISA). The EPA standards will require light-duty vehicles to meet an estimated combined average emissions level of 250 grams/mile of CO_2 in model year 2016, equivalent to a fuel economy level of 35.5 miles per gallon if all the reductions were achieved through improvements in fuel economy. The CO_2 standards also allow manufacturers to earn credits for air conditioning system improvements that reduce GHGs other than CO_2.

The NHTSA CAFE standards are only based on technologies that improve fuel economy and are not based on consideration of air conditioning improvements (which NHTSA cannot consider given that the federal test procedures used to calculate fuel economy for passenger cars may not include air conditioning usage). The maximum feasible CAFE standards should require manufacturers of passenger cars and light trucks to meet an estimated combined average fuel economy level of 34.1 mpg in model year 2016. These standards represent a harmonized approach that will allow industry to build a single national fleet that will satisfy both the GHG requirements under the CAA and CAFE requirements under EPCA/EISA.

The NHTSA and EPA standards were informed in part by state regulatory action. In 2004, the California Air Resources Board (CARB) adopted GHG standards for new light-duty vehicles covering MYs 2009–2016. Subsequently, thirteen states and the District of Columbia, comprising approximately 40 percent of the light-duty vehicle market, have adopted California's standards. On June 30, 2009, EPA granted California's request for a waiver of preemption under section 209(b) of the CAA.[7] The granting of the waiver allows California and the other states to proceed with implementing the California emission standards. To promote the National Program for MYs 2012–2016 vehicles, in April 2010 California revised its GHG emissions program for MYs 2012–2016 vehicles such that compliance with EPA's GHG standards will be deemed to be in compliance with California's GHG emission standards.[8] This action makes it possible for automakers to produce a single fleet of vehicles nationwide that meets all the requirements of the two federal programs as well as those of the California program.

As described in the recent final rule, EPA and NHTSA expect that automobile manufacturers will meet the MYs 2012–2016 CAFE and GHG standards primarily by using currently-available technologies, and simply incorporating these technologies more broadly across the light-duty vehicle fleet. These technologies include improvements to engines, transmissions, and vehicles, including increased use of start-stop technology, improvements in air conditioning systems, and increased use of hybrid and other advanced technologies. The program also provides incentives for the initial commercialization of electric vehicles and plug-in hybrids. NHTSA's and EPA's assessment of likely vehicle technologies that manufacturers could employ to meet the MYs 2012–2016 standards provides an important foundation for the agencies' consideration of potential 2017–2025 standards.

The MY 2012–2016 standards also provide a number of compliance flexibilities to manufacturers. These flexibilities are discussed further in Section III.B below. As noted above, the benefits of these standards far exceed the costs.

C. Stakeholder Support for Continuing the National Program in 2017 and Beyond

During the public comment period for the MY 2012–2016 proposed rulemaking, many stakeholders strongly encouraged EPA and NHTSA to begin working toward standards for MY 2017 and beyond that would maintain a single nationwide program. Following the President's May announcement, several major automobile manufacturers and the CARB sent letters to EPA and NHTSA in support of the 2017 to 2025 MY rulemaking initiative outlined in the President's Memorandum.[9]

D. Presidential Memorandum's Request for EPA, NHTSA, and California to Develop a Technical Assessment

In addition to the President's request for EPA and NHTSA to issue this Notice announcing plans "*for setting stringent fuel economy and greenhouse gas emissions standards for light-duty vehicles of model year 2017 and beyond,*" the May 21, 2010 Presidential Memorandum also requested that the agencies work with the State of California to develop a technical assessment to inform the rulemaking process. The memorandum states that the report should reflect input from an array of stakeholders on relevant factors, including "*viable technologies, costs, benefits, lead time to develop and deploy new and emerging technologies, incentives and other flexibilities to encourage development and deployment of new and emerging technologies, impacts on jobs and the automotive manufacturing base in the United States, and infrastructure for advanced vehicle technologies.*" [10]

EPA and NHTSA have worked collaboratively with CARB to develop this technical assessment based on currently available data, consistent with the President's request. The agencies are releasing an Interim Joint Technical Assessment Report (TAR) in conjunction with this Notice.[11] The

[6] For a detailed discussion of NHTSA's and EPA's respective statutory authorities, see 75 FR 25324, 25348 (May 7, 2010) and 74 FR 49454, 49460 (September 28, 2009).

[7] *See* 74 FR 32744, July 8, 2009.

[8] *See* CARB April 1, 2010 action at *http://www.arb.ca.gov/regact/2010/ghgpv10/ghgpv10.htm.*

[9] These commitment letters are posted at *http://www.epa.gov/otaq/climate/regulations.htm* and at *http://www.nhtsa.gov/Laws+&+Regulations/CAFE+-+Fuel+Economy/Stakeholder+Committment+Letters.*

[10] Presidential Memorandum, section 2(a).

[11] "Interim Joint Technical Assessment Report: Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards for Model Years 2017–2025," issued jointly by EPA, NHTSA and CARB, September 2010. Available at *http://www.nhtsa.gov/fuel-economy* and *http://www.epa.gov/OTAQ/climate/regulations.htm.*

TAR provides an initial technical assessment for this Notice and discusses the significant additional technical information and analysis that will be needed to support the rulemaking development process. While the TAR is an important step in a continuation of the National Program, significant work remains to be done to support a future federal rulemaking, as discussed below in Section I.E.4. The key elements and findings of the TAR are discussed further in this Notice.

1. Stakeholder Outreach Conducted To Inform the Technical Assessment

During June through August 2010, EPA, NHTSA, and CARB held numerous meetings with a wide variety of stakeholders to gather input to consider in developing the TAR, and to ensure that the agencies had available to them the most recent technical information. These stakeholders included the automobile original equipment manufacturers (OEMs), automotive suppliers, non-governmental organizations, states and state organizations, infrastructure providers, and labor unions. The agencies sought these stakeholders' technical input and perspectives, consistent with the President's request, on the key issues that should be considered in assessing a continued National Program to reduce greenhouse gas emissions and improve fuel economy for light-duty vehicles in model years 2017–2025. The input from these stakeholders is discussed in detail in Chapter 2 of the TAR.

In response to the agencies' request, OEMs provided detailed and confidential input regarding several key areas including technology development, key regulatory design elements, infrastructure issues, perspective on the impacts on the U.S. manufacturing base and jobs, costs, and potential regulatory incentives and flexibilities. A common theme across the auto firms is that they are all heavily investing in advanced technologies including hybrids (HEVs), plug-in hybrid electric vehicles (PHEVs), electric vehicles (EVs), next generation internal combustion engines, and mass reduction technologies, and companies expect to increase their offerings and sales of these technologies significantly in the future. The companies generally stated, however, that the degree to which these advanced technologies will penetrate the U.S. market in the MYs 2017–2025 timeframe is dependent upon a number of challenges and factors, including future gasoline fuel prices, future decreases in battery costs, future regulatory fuel economy/GHG requirements, and government incentives for vehicle purchasers and owners such as the existing tax credits for EVs and PHEVs. EPA, NHTSA and CARB also met with a cross section of automotive suppliers as well as advanced technology infrastructure providers.

The agencies also requested input from numerous non-governmental organizations, including environmental organizations and labor organizations, and from state and local governments and their organizations. These stakeholders strongly supported the President's call for continuing the National Program approach and setting new fuel economy and greenhouse gas standards for light-duty vehicles for the 2017–2025 model years. Chapter 2 of the TAR provides an overview of the input we received during discussions with these organizations.

2. Overview of Initial Assessment of Available Technologies, Costs, Technology Effectiveness, and Lead-time

EPA and NHTSA, working with CARB, have conducted an initial assessment of the expected technology costs, effectiveness, and lead-time for potential MYs 2017–2025 GHG emission standards and the equivalent fuel economy. The agencies and CARB assessed over 30 vehicle technologies that manufacturers could use to improve the fuel economy and reduce the CO_2 emissions of their vehicles during MYs 2017–2025. The technologies considered fall into five broad categories: Engine technologies, transmission technologies, vehicle technologies (including mass reduction), electrification/accessory technologies, and hybrid/vehicle electrification technologies. The agencies and CARB considered not only technologies that are readily available today, but also other technologies that may not currently be in production but are beyond the research phase and under development, and which are expected to be in production in the MYs 2017–2025 timeframe. To be sure, the assessment of new technologies up to 15 years in the future has uncertainties. Nonetheless, the agencies and CARB have determined, on the basis of the initial analysis in the TAR, that automotive technologies are available, or are expected to be available, to support a reduction in greenhouse gas emissions and commensurate increase in fuel economy in 2017–2025 MY timeframe for the full range of scenarios examined in the TAR. The agencies have also determined, on the basis of the initial analysis, that increases come at increasing incremental cost. Of course the agencies must take into account the statutory obligations that have not been fully considered in this analysis.

Consistent with stakeholder input obtained over the summer, we believe that in addition to advanced gasoline and diesel vehicles, electric drive vehicles can be an important part of the vehicle mix that will likely be used to meet future fuel economy and GHG emission standards. Electric drive vehicles including HEVs, PHEVs, EVs, and hydrogen fuel cell vehicles (FCVs), can dramatically reduce petroleum consumption and tailpipe GHG emissions compared to conventional technologies.

The initial assessment by EPA, NHTSA, and CARB of technology costs, effectiveness and lead-time issues is presented in Chapter 3 of the TAR. The TAR introduces a number of new studies that are in progress and several that have been completed since the 2012–2016 MY light duty vehicle rule was issued. These studies have resulted in new estimates for costs and effectiveness for a number of technologies including engines, transmissions, batteries, and mass reduction. All of these are critical technologies in the 2017–2025 MY timeframe. The agencies and CARB expect to update these estimates going forward as more information becomes available from on-going studies of technology, effectiveness, and costs, as well as mass reduction and safety, as discussed in Section I.E.4 below.

3. Other Issues Addressed in the Technical Assessment

Beyond the issues of the technology cost, effectiveness, and lead time for potential MYs 2017–2025 standards, the Presidential Memorandum requested that the technical assessment include input on some other areas, including impacts on jobs and the automotive manufacturing sector, and infrastructure for advanced vehicle technologies.

In the TAR, the agencies and CARB include a discussion of input from stakeholders, including the OEMs and labor unions, on the potential impacts of standards on jobs and the automotive sector. Several OEMs and the labor unions noted that Federal government Recovery Act investments, as well as incentives provided by some state and local governments, were an important factor in locating manufacturing operations for advanced battery, electric motor, and vehicle assembly plants in the U.S., and that continuation of this type of investment would be an important consideration in the decision whether to locate future facilities in the U.S. Chapter 7 of the TAR also includes

a discussion of the key issues surrounding the potential employment impacts of more stringent light duty vehicle GHG and fuel economy standards. With the global drivers of competitiveness and increased importance of clean and efficient technologies, auto companies have already begun to invest in new technologies that can help meet future GHG/fuel economy standards. These investments will help the U.S. auto sector to stay on the cutting edge of auto technology. The agencies expect that the new standards will have effects on vehicle sales. For the forthcoming rulemaking, EPA and NHTSA will further investigate the impacts of the proposed standards on the auto industry, including employment.

The TAR also includes a discussion of the electric charging and infrastructure development needed to support successful deployment of certain types of advanced technology vehicles. In the case of EVs and PHEVs, electric charging systems are needed to facilitate market penetration of these vehicle technologies. On the basis of stakeholder input, the agencies expect that these charging systems will be located most often at homes. In addition, charging systems at workplaces and potentially also at public facilities such as parking lots or retail stores could become important enablers for significant market penetration of these vehicles. In the case of fuel cell vehicles, hydrogen fueling stations are needed to support commercialization. Chapter 4 of the TAR provides an assessment of current charging systems and infrastructure technologies and costs, prospects for technology improvement, infrastructure deployment programs underway, and further infrastructure needs. The agencies and CARB worked closely with the Department of Energy (DOE) in our assessment of infrastructure issues, as well as other aspects of the TAR.

The agencies also discuss the major relevant factors which can impact future automotive manufacturing jobs in the United States in Chapter 7 of the TAR. The TAR does not provide a quantitative assessment of these effects, rather, the agencies discuss the potential impacts of advanced technologies on the auto industry in general and employment in the auto sector. The automotive market is becoming increasingly global. The U.S. auto companies produce and sell automobiles around the world, and foreign auto companies produce and sell in the U.S. As a result, the industry has become increasingly competitive. Staying at the cutting edge of automotive technology, while maintaining profitability and consumer acceptance, has become increasingly important for the sustainability of auto companies. Trends in the world automotive market suggest that investments in improved fuel economy and advanced technology vehicles are a necessary component for maintaining competitiveness in coming years. As automakers seek greater commonality across the vehicles they produce for the domestic and foreign markets, improving fuel economy and reducing GHGs in U.S. vehicles should have spillovers to foreign production, and vice versa, thus yielding the ability to amortize investment in research and production over a broader product and geographic spectrum. The effects of the use of advanced technologies on U.S. auto sector employment depend on how the standards affect several factors: the number of vehicles produced, the labor intensity of vehicle production, potential changes in automotive sales, and any changes in market shares between domestically produced and imported vehicles and auto parts. With respect to this last factor, the location of production will depend on how domestic production costs, especially for advanced technologies, compare to foreign production costs, and on the cost of transporting vehicles and parts between the U.S. and other countries. Investments in advanced technology production facilities, such as battery manufacturing and vehicle electrification projects, supported by the Recovery Act (for example) reduce the need for importing these parts from overseas.[12] These investments by the Department of Energy have created immediate jobs in building this capacity, and they also help ensure that these components can be produced in the U.S. Tax breaks and other manufacturing incentives provided by a number of local and state governments for advanced vehicle technologies, such as in Michigan, have also contributed incentives for domestic production. For the forthcoming notice of proposed rulemaking for 2017–2025 GHG and CAFE standards, EPA and NHTSA will further investigate the impacts of the proposed standards on the auto industry and employment.

The TAR also includes an initial assessment of the costs, benefits, and technology that could be used to achieve a range of potential future stringencies, as discussed in section II.A below.

4. Future Technical Work and Analysis for the Joint Federal Rulemaking

The two agencies have a number of significant, on-going projects that will inform the joint proposed rule for MYs 2017–2025 vehicles. These include new technical assessments of advanced gasoline, diesel, and hybrid vehicle technology effectiveness; several new projects to evaluate the cost, feasibility, and safety impacts of mass reduction from vehicles; and an ongoing project to improve our cost estimates for advanced technologies.[13] For the MYs 2017–2025 rulemaking, NHTSA and EPA will conduct an analysis of the effects of the proposed standards on vehicle safety, including societal effects. EPA and NHTSA are coordinating with CARB on their study of the safety effects of a future vehicle designed for high levels of mass reduction. In addition, EPA and NHTSA will continue to meet with and consider input from the full range of stakeholders as we develop the joint Federal rulemaking. All of this future information will enhance the accuracy of our technological assessment.

II. Key Elements of the MY 2017–2025 National Program

A. Initial Assessment of a Range of Potential MY 2017–2025 GHG and CAFE Scenarios

1. Overview of Scenarios Analyzed and the Agencies' Approach to the Analysis

In the technical assessment, the agencies and CARB conducted an initial fleet-level analysis of improvements in overall average GHG emissions and fuel economy levels. We analyzed a range of potential stringencies for model years 2020 and 2025. Specifically, we analyzed four potential GHG targets, representing a 3, 4, 5, and 6 percent per year decrease in GHG levels from the MY 2016 fleet-wide average of 250 gram/mile (g/mi). Thus, the MY 2025 targets analyzed range from 190 g/mi (equivalent to 47 mpg) under the 3 percent per year reduction scenario to 143 g/mi (equivalent to 62 mpg) under the 6 percent per year scenario.[14] For purposes of an initial assessment, this range represents a reasonably broad range of stringency increases for

[12] "Recovery Act Awards for Electric Drive Vehicle Battery and Component Manufacturing Initiative" and "Recovery Act Awards for Transportation Electrification," *http://www1.eere.energy.gov/recovery/pdfs/battery_awardee_list.pdf.*

[13] This ongoing work is discussed in Chapter 3 of the TAR.

[14] The modeled stringencies, like the EPA's MY 2012–2016 standards, include the potential use of air conditioning emission reductions, estimated at 15 grams (compared to a 2008 baseline) in 2025 for all four technology paths. The estimates for further air conditioning reductions are largely due to an anticipated increase in the use of alternative refrigerants.

potential future GHG emissions standards and is also consistent with the increases suggested by CARB in its letter of commitment in response to the President's memorandum.

The specific average required GHG and MPG equivalent levels analyzed are shown in Table 1:

TABLE 1—GHG AND MPG EQUIVALENT LEVELS ANALYZED FOR SCENARIOS [1]

Scenario	Level in MY 2025 (gram CO_2/mile)	MPG-equivalent
3% per year	190	47
4% per year	173	51
5% per year	158	56
6% per year	143	62

[1] Real-world CO_2 is typically 25 percent higher and real-world fuel economy is typically 20 percent lower. Thus the 3% to 6% range evaluated in this assessment would span a range of real-world fuel economy values of approximately 37 to 50 mpg, which correspond to the regulatory test procedure values of 47 to 62, respectively.

For each of these levels of stringency, we also analyzed four "technological pathways" by which they could be met. We chose this "technological pathway" approach to capture both the diversity in strategies expressed by OEMs in this summer's stakeholder meetings, and uncertainties in forecasting 10–15 years into the future the potential costs and use of various advanced technologies in the light-duty vehicle fleet. We defined each of these technology pathways to emphasize a different mix of advanced technologies, by assuming various degrees of penetration of advanced gasoline technologies, mass reduction, hybrids, plug-in hybrids, and electric vehicles. For purposes of the assessment, the agencies denominated the pathways as Pathway A, Pathway B, Pathway C and Pathway D, respectively.

- Pathway A represents an approach where the industry focuses on HEVs, with less reliance on advanced gasoline vehicles and mass reduction, relative to Pathways B and C.
- Pathway C represents an approach where the industry focuses most on advanced gasoline vehicles and mass reduction, and to a lesser extent on HEVs.
- Pathway B represents an approach where the industry utilizes advanced gasoline vehicles and mass reduction at a more moderate level, higher than in Pathway A but less than in Pathway C.
- Pathway D represents an approach where the industry focuses on the use of PHEV, EV, and HEV technology, and relies less on advanced gasoline vehicles and mass reduction.[15]

All four of these technology pathways include significant amounts of mass reduction, relative to 2008 model year vehicles, ranging from 15 to 30 percent in 2025. The ability of the industry to reduce mass at the higher end of this range, while not adversely affecting safety and other vehicle attributes, is an open technical issue which the agencies are carefully evaluating and will continue to as we move forward. The agencies and CARB note that these pathways are meant to represent ways that manufacturers *could* respond to eventual standards, and do not represent ways that they *must* or necessarily *will* respond to those standards. We further believe it is appropriate to consider more than one potential technology pathway, since NHTSA, EPA, and CARB have on-going technology cost, effectiveness, and safety work which has not been completed, as discussed further in Section I.E.4 above.

For this initial assessment, we analyzed the vehicle fleet as one single industry-wide fleet, irrespective of individual manufacturer differences. This analysis focuses on the technology itself, independent of the individual manufacturer, and produces results that indicate how the single fleet could hypothetically achieve greater GHG reductions and improved fuel economy in the most efficient manner. Treating the entire fleet as a single fleet assumes, for example, averaging GHG performance across all vehicle platforms is possible irrespective of who the individual manufacturer is for a particular vehicle platform. This can be thought of as analyzing the fleet as if there was a single large manufacturer, instead of multiple individual manufacturers. In addition, this analysis assumes there are no statutory or other limits on manufacturers' ability to transfer credits between passenger car and light truck fleets, no limits on the ability to trade credits between manufacturers, and that all manufacturers fully utilize such flexibilities with no transfer costs in doing so. This approach also allows an assessment to be performed without consideration of the particular shapes of the passenger car and light truck attribute-based curves.[16]

These analyses build upon methods and information applied for the final rule for MY 2012–2016 vehicles, as well as updated forecasts of the future light-duty vehicle fleet, updated projections of technology costs and effectiveness, and updates to several key inputs such as fuel prices [17] and vehicle miles traveled projections.[18] We did not explicitly model any crediting schemes in this analysis. However the assumption of full car-truck credit transfer and inter-manufacturer trading is inherent in analyzing a single industry-wide fleet. Air conditioning emission reductions were also accounted for, as a fundamental component of EPA's MYs 2012–2016 program. The agencies used the OMEGA model, developed by EPA for the MY 2012–2016 light-duty vehicle rulemaking.[19] The key inputs for this analysis (e.g., the technology costs and effectiveness) are a result of the joint technical assessment of EPA, CARB, and NHTSA, as described in Chapter 3 of the TAR.

EPA and NHTSA believe that the approach used for these analyses permits an initial and approximate evaluation of the potential costs and benefits of the fleetwide stringency levels modeled. This approach incorporates significant simplifying assumptions that are useful for this initial assessment. However, the simplified analyses would not be appropriate in the context of the future joint federal rulemaking, taking into account each agency's respective statutory requirements. Consequently, in the full rulemaking analysis, both EPA and NHTSA will perform additional analyses before proposing standards. These simplifying assumptions and their relationship to the future federal rulemaking are discussed in detail in Section II.A.4 below and in Chapter 6 of the TAR.

2. Summary of Preliminary Costs and Benefits for Potential Scenarios

The agencies and CARB assessed four scenarios for potential fleet-wide average GHG levels, with annual CO_2 reductions in the range of 3 to 6 percent per year, which would be equivalent to 47 to 62 mpg if all improvements were due to fuel-economy improving technologies, for MY 2025 light-duty

[15] Further information on the four technology pathways is provided in Section II.A.3. below and Section 6.3 of the TAR.

[16] *See* section II.B.1 for more information on attribute based curves.

[17] The fuel prices used are based on the Energy Information Administration's Annual Energy Outlook 2010, which includes an estimated gasoline price in 2025 of approximately $3.50 per gallon.

[18] *See* the TAR, Chapter 3 for a full discussion of technology costs and effectiveness, Chapter 6 for a full description of the modeling methods, Appendix A for a description of the future vehicle fleet projections, and Appendix E for the key inputs used in the modeling analysis.

[19] *See* 75 FR at 25446 (May 7, 2010).

vehicles, and four potential technology pathways, as described above, for each of these stringency levels.[20] We evaluated the costs and benefits of these scenarios based on five broad metrics: increased cost per vehicle, lifetime fuel reductions, lifetime greenhouse gas reductions, consumer net lifetime savings, and payback period.

The results presented in Tables 2 and 3 indicate that substantial reductions in fuel consumption and GHGs can be achieved with the use of advanced technologies. The preliminary estimated per-vehicle cost increases for a MY 2025 vehicle ranged from $770 to $3,500 across the range of stringency targets and technology pathways. Due to the fuel savings consumers experience by purchasing vehicles with improved fuel economy, the net lifetime owner savings would be $5,000 to $7,400, or a payback period of 1.4 to 4.2 years, for these same scenarios.[21] The aggregate fuel reductions achieved by these scenarios would range from 0.7 to 1.3 billion barrels over the lifetime of MY 2025 vehicles.[22] Total greenhouse gas reductions would range from 340 to 590 million metric tons (MMT) over the lifetime of MY 2025 vehicles, depending on the stringency target and technology pathway.[23] It is also important to recognize that the preliminary estimates in Tables 2 and 3 do not include all relevant costs, which will be analyzed in detail in connection with the rulemaking.

TABLE 2—PROJECTIONS FOR MY 2025 PRELIMINARY PER-VEHICLE COST ESTIMATES, VEHICLE OWNER PAYBACK, AND NET OWNER LIFETIME SAVINGS [1]

Scenario	Technology path	Preliminary per-vehicle cost estimates ($)	Payback period (years)	Net lifetime owner savings ($)
3%/year	A	930	1.6	5,000
	B	850	1.5	5,100
	C	770	1.4	5,200
	D	1,050	1.9	4,900
4%/year	A	1,700	2.5	5,900
	B	1,500	2.2	6,000
	C	1,400	1.9	6,200
	D	1,900	2.9	5,300
5%/year	A	2,500	3.1	6,500
	B	2,300	2.8	6,700
	C	2,100	2.5	7,000
	D	2,600	3.6	5,500
6%/year	A	3,500	4.1	6,200
	B	3,200	3.7	6,600
	C	2,800	3.1	7,400
	D	3,400	4.2	5,700

[1] Per-vehicle costs represent the increase in costs to consumers from the MY 2016 standards, including the direct manufacturing costs for the new technologies, indirect costs for the auto manufacturer (*e.g.*, product development, warranty) as well as auto manufacturer profit, and indirect costs at the dealership—see Chapter 3.2.5 of the TAR for additional detail on our estimation of indirect costs. Payback period and lifetime owner savings use a 3% discount rate and AEO 2010 reference case energy prices. The gasoline price used for this estimate is $3.49/gallon in 2025 and increases over time to a maximum of $4.34/gallon in 2050.

TABLE 3—ESTIMATED TOTAL CO_2e AND FUEL REDUCTIONS FOR THE LIFETIME OF MY 2025 VEHICLES [1, 2, 3]

Scenario	Lifetime CO_2e reduction (million metric tons, MMT)	Lifetime fuel reduction (billion barrels)
3%/year	340	0.7
4%/year	440	0.9
5%/year	520–530	1.1
6%/year	530–590	1.3

[1] Fuel reductions are the same for each of the four technology pathways, but CO_2e reductions vary as a function of the penetration of EVs and PHEVs in each of the four technology pathways evaluated (due to an increase in upstream emissions).

[2] For reference, the National Program in MY 2016 is projected to reduce 0.6 billion barrels of fuel and 325 MMT CO_2e over the lifetime of MY 2016 vehicles.

[3] We note that the total lifetime benefits of the program over MYs 2017–2025 will be significantly greater than those of MY 2025 alone.

The results in Table 2 shows high positive net lifetime fuel savings are estimated to accrue to the vehicle owners, for each of the stringency scenario's examined and for each of the technology paths. Because these benefits will show up as direct savings to consumers who buy these vehicles, the question arises whether private markets will provide these benefits, or whether there may be unidentified additional costs associated with these technologies or other economic assumptions not included in the analysis. In the 2012–2016 light-duty GHG/CAFE rule, both EPA and NHTSA discussed these issues in detail, and the agencies will continue to evaluate this issue as we work towards the development of a joint NPRM.[24] The results presented for this initial assessment represent what the agencies expect a hypothetical full-line vehicle manufacturer could achieve, if the composition of the manufacturer's fleet has the same vehicle types and sales mix as the aggregate fleet and the availability, cost, and effectiveness of various technologies are the same as estimated in this assessment. Note that the results presented here assume trading between auto firms, which may or may not occur in the future. The results also assume that the transfer of credits between car and light truck fleets

[20] In Chapter 6 of the TAR, the agencies also present results for MY 2020 for Pathways A, B, and C.

[21] The gasoline price used for this estimate is $3.49/gallon in 2025 and increases over time to a maximum of $4.34/gallon in 2050.

[22] For comparison, the MY 2016 standards by themselves are projected to result in fuel reductions of 0.6 billion barrels and CO_2-e reductions of 325 million metric tons (MMT) over the lifetime of MY 2016 vehicles.

[23] While fuel savings are the same for each technology pathway at a given stringency level, CO_2 reductions vary as a function of the penetration of PHEVs and EVs projected for a given technology pathway, due to an increase in upstream CO_2 emissions.

[24] *See* Environmental Protection Agency and Department of Transportation, "Light-Duty Vehicle Greenhouse Gas Emissions Standards and Corporate Average Fuel Economy Standards; Final Rule," **Federal Register** 75(88) (May 7, 2010): Section III.H.1 (pp. 25510–25513) and Section IV.G.6 (pp. 25651–25657).

are unlimited, whereas there are statutory limits for CAFE. Among actual full-line vehicle manufacturers, we expect that a manufacturer-specific assessment based on footprint-attribute standard curves will result in costs which are in aggregate higher than those presented here and will be higher for some manufacturers and lower for others due to the differences among their offerings.[25] With respect to smaller volume manufacturers and very low volume manufacturers (many of whom only produce high-performance luxury vehicles), the agencies would expect that, in general, the level of technology they would require and the costs they would incur would generally be higher than for full line manufacturers.

In the full analysis for the rulemaking, as required by EPCA/EISA and as permitted by the CAA, the agencies will make more refined assessments, including separate analyses for car and light truck vehicle fleets, year-by-year attribute-based standards, and manufacturer-specific estimates of potential attribute-based standard targets and costs, and other statutory requirements. The agencies note that consideration of these statutory factors may affect the potential range of standards. NHTSA and EPA also will perform a more thorough assessment of the impacts of proposed standards, as was done for the MY 2012–2016 rulemaking, including analysis of improved energy security, monetized benefits of CO_2 reductions, co-pollutant impacts, an assessment of the societal costs and benefits of potential standards, an assessment of potential safety impacts, an assessment of impacts on automobile sales and related employment, and other relevant impacts.

3. Potential Technology Penetration Estimates for Various Pathways

As described above, the agencies and CARB analyzed four potential technology pathways to achieve more stringent targets, recognizing there are a wide range of pathways manufacturers could pursue. To illustrate several alternative ways that the industry as a whole could achieve a given level of stringency, each of these four technology pathways was applied to each of the four stringency targets. As noted above, Pathway A focuses on HEVs, Pathway C focuses most on advanced gasoline vehicles and mass reduction, Pathway B represents a more moderate level of advanced gasoline vehicles, between Pathway A and Pathway C, and Pathway D focuses most on PHEV, EV, and HEV technology.[26] The results of the assessment presented in the TAR are presented in Table 4.

TABLE 4—TECHNOLOGY PENETRATION ESTIMATES FOR MY 2025 VEHICLE FLEET

Scenario	Technology path	New vehicle fleet technology penetration				
		Mass reduction [1] (percent)	Gasoline & diesel vehicles (percent)	HEVs (percent)	PHEVs [2] (percent)	EVs (percent)
3%/year	Path A	15	89	11	0	0
	Path B	18	97	3	0	0
	Path C	18	97	3	0	0
	Path D	15	75	25	0	0
4%/year	Path A	15	65	34	0	0
	Path B	20	82	18	0	0
	Path C	25	97	3	0	0
	Path D	15	55	41	0	4
5%/year	Path A	15	35	65	0	1
	Path B	20	56	43	0	1
	Path C	25	74	25	0	0
	Path D	15	41	49	0	10
6%/year	Path A	14	23	68	2	7
	Path B	19	48	43	2	7
	Path C	26	53	44	0	4
	Path D	14	29	55	2	14

[1] Mass reduction is the overall reduction of the 2025 fleet relative to MY 2008 vehicles.
[2] Our assessment considered both PHEVs and EVs. These initial results indicate a higher relative percent of EVs compared to PHEVs. The agencies do believe that PHEV technology may be used more broadly than what this analysis indicates.

The penetration of HEVs, EVs, and PHEV in MY 2025 varies considerably depending on the technology pathway and scenario, as can be seen in Table 4. As discussed in Chapter 6.3 of the TAR, Pathway A is intended to portray a technology path focused on HEV technology, with less reliance on advanced gasoline vehicles mass reduction, relative to Pathways B and C. Thus, in the 3%/year scenario, Pathway A results in 11% HEV penetration, and the most stringent 6% scenario increases HEV penetration to 68% for Path A, all with approximately a 15% reduction in mass for the new vehicle fleet. Pathway C represents an approach where the industry focuses most on advanced gasoline vehicles and mass reduction, and to a lesser extent on HEVs, resulting in a penetration of HEVs that ranges from 3% up to 44% of the new vehicle fleet. Given the approach that Pathway C represents, the penetration of gasoline and diesel vehicles for each of the stringency scenarios is highest for Pathway C, as is the degree of mass reduction. Pathway B represents an approach where advanced gasoline vehicles and mass reduction are utilized at a more moderate level, higher than for Pathway A but less than for Pathway C. Pathway D represents an approach focused on the use of PHEV, EV, and HEV technology, and less reliance on advanced gasoline vehicle and mass reduction.

[25] All other things being equal, limiting credit transfers between passenger cars and light trucks within a firm, and limiting credit trading among manufacturers, are two factors that would likely lead to higher cost estimates.

[26] Further description of these technology pathways can be found in Chapter 6 of the TAR.

4. Future Analysis of Potential Standards for MY 2017–2025

The agencies emphasize that the analysis presented in this notice, while reasonable for conducting an initial assessment, is a first step. Much more work must be completed for the upcoming NPRM. As noted above, we expect to issue updated assessments by November 30 of this year. The upcoming rulemaking to develop the next phase of the National Program will be based on a full analysis that is consistent with both the statutory framework that NHTSA must account for, and the flexibilities that EPA may account for, just as the detailed analysis for the MYs 2012–2016 was conducted.[27] For purposes of this initial assessment, the agencies examined stringencies in the 3% to 6% per year range. However, the agencies have not reached any conclusions at this time regarding the appropriate level of stringency for MY 2017 and later, and the assessment presented in this Joint Notice does not preclude the agencies from considering standards outside of this range for the upcoming rulemaking. The future Joint NPRM will consider a number of alternative levels of stringency, including an alternative which is estimated to maximize net benefits. While the single fleet analysis approach simplifies some aspects of the analysis and offers some advantages, there are also important limitations which will be addressed during the rulemaking process.

For the same reasons discussed in detail in the MYs 2012–2016 rulemaking, NHTSA and EPA expect to develop new standards for CAFE and GHG emissions that are consistent with each other and can be met by each auto manufacturer through the production of one single fleet. NHTSA and EPA believe the TAR provides a useful means of comparing the scenarios discussed above.

As the agencies proceed to develop a joint proposed rulemaking for light-duty vehicle GHG emissions and fuel economy, we will continue technical and policy discussions with a broad range of stakeholders. We expect to gain information through these conversations, as well as from ongoing technical assessments by the agencies and other parties, that will build on the work presented in this Notice and the TAR as we continue to respond to the May 21, 2010 Presidential Memorandum.

[27] For further information on the kinds of comprehensive analyses performed for the MYs 2012–2016 rulemaking, *see* 75 FR 25348–396.

B. Form of the Standards, Compliance and Flexibilities, and Other Key Elements

EPA and NHTSA sought initial input about the appropriate design of a MYs 2017–2025 National Program from a range of stakeholders. Most of the program design input that we have received to date has come from OEMs, although many of their suggestions relate to specific potential compliance strategies that the companies consider confidential. However, there was consensus among stakeholders that a National Program should continue, and that the program's design should allow a single national fleet to comply with Federal GHG standards, Federal CAFE standards, and California GHG standards.

1. Form of the Standards

In the future rulemaking, the agencies plan to continue an attribute-based approach to setting the MYs 2017–2025 standards, as was done for the MYs 2012–2016 program and as required for CAFE standards per EPCA/EISA. In our outreach with stakeholders, we heard general support for continuing an attribute-based approach and for continuing to use vehicle footprint as the attribute. Under an attribute-based standard, each manufacturer has a required GHG and CAFE fleet average unique to its fleet, depending on the attributes and production levels of the vehicle models that a manufacturer produces. The MYs 2012–2016 rule was based on vehicle footprint, which is essentially the area enclosed by the points at which the four wheels meet the ground. In developing a proposed rule, we plan to consider continuing the footprint-based attribute, for which most stakeholders generally offered support.

A key consideration for the MYs 2017–2025 standards that has not yet been addressed will be development of the separate attribute-based standards, or "curves," for passenger cars and light trucks. The attribute-based curves for passenger cars and light trucks essentially assign a GHG/fuel economy level or "target" to an individual vehicle's footprint value. For each manufacturer, the CO_2/mpg values are then weighted, based on that manufacturer's production mix to determine that manufacturer's fleet average standard for its cars and trucks. Compliance is determined by comparing the actual CO_2 or mpg values for the vehicles, production-weighted, to this fleet average standard.

In developing the MYs 2012–2016 footprint-based curves, the agencies considered many key issues, including the steepness of the slopes of the curves and the difference between the car and truck curves for vehicles of the same footprint. We expect that these issues will again be key considerations in developing the methodology and the shape of the curves for the MYs 2017–2025 standards. Several OEMs expressed support for the continuation of separate attribute-based standards for cars and trucks, which is required for CAFE standards under EPCA/EISA and which the agencies will also evaluate further for the rulemaking.

2. Potential Regulatory Flexibilities

During the agencies' outreach discussions with stakeholders, manufacturers provided early input that several of the flexibility provisions in place for MYs 2012–2016 should be retained for MY 2017 and later. Environmental groups also provided early input, as discussed below. As EPA and NHTSA develop the proposal for the MYs 2017–2025 program, the agencies will continue to consider the potential need for and benefits of incentives and flexibility provisions beyond those mandated by statute. The agencies will consider whether and how some of the flexibility provisions included in the MYs 2012–2016 program might be applied to the new program, consistent with each agency's statutory authority.

The EPCA/EISA statutory framework for the CAFE program includes a 5-year credit carry-forward provision and a 3-year credit carry-back provision. In the MYs 2012–2016 program, EPA chose to follow this approach to maintain consistency between the agencies' provisions. Most manufacturers support EPA's continuing to incorporate a 3-year credit carry-back provision to cover prior debits, a 5-year credit carry-forward provision, credit transfers between car and truck categories, and credit trading between manufacturers. For EPA's purposes, these kinds of provisions, collectively termed here as Averaging, Banking, and Trading (ABT), have been an important part of many mobile source programs under CAA Title II, both for fuels programs as well as for engine and vehicle programs.[28] Manufacturers have stated that ABT options are important to address many issues of technological feasibility and lead time, as well as considerations of cost. The agencies plan to propose to continue flexibility provisions in the MYs 2017–2025 program, since these types of compliance flexibilities will

[28] *See* 75 FR 25412–413.

likely remain important as standards become more stringent.

Several smaller volume manufacturers have expressed continued concerns regarding lead-time, and support additional flexibility to address the unique needs of small volume manufacturers. EPA's GHG standards provided smaller volume manufacturers additional lead time to meet the GHG standards, recognizing their higher CO_2 baseline levels and more limited vehicle product lines across which to average compared to other manufacturers. The need for this type of flexibility for the standards will be tied closely to the level of stringency of those standards.

Several manufacturers also have expressed support for the continuation of air conditioning (A/C) system credits. EPA is strongly considering A/C credits for the MYs 2017–2025 program. EPA has included A/C reductions in the initial emissions modeling done to support the technical assessment.[29] EPA plans to evaluate further the methodology used to determine A/C-related reductions, including A/C-related test procedures.

Some manufacturers also have expressed support for the continuation of EPA's off-cycle credits program.[30] This program provides an option for manufacturers to generate credits for employing new and innovative technologies that achieve GHG reductions that are not reflected on current test procedures. Credits must be based on real additional reductions of CO_2 emissions and must be quantifiable and verifiable with a repeatable methodology. The off-cycle credits for new and innovative technologies are currently available only through MY 2016. Manufacturers have noted that as long as the credits represent real-world off-cycle emissions reductions, the credits should be able to be generated for innovations that are introduced after MY 2016, providing additional incentives for investment in innovation and research and development. EPA recognizes this perspective and will evaluate the off-cycle credits provisions in the context of the MYs 2017–2025 program.

Some manufacturers encouraged EPA to continue to offer flexible fuel vehicle (FFV) credits. EPA finalized provisions in the MYs 2012–2016 Final Rule to treat MY 2016 and later FFVs similarly to conventional fueled vehicles, in that FFV emissions would be based on actual CO_2 results from emissions testing on the fuels on which it operates.[31] In calculating the emissions performance of an FFV, manufacturers may base FFV emissions in part on vehicle emissions test results on the alternative fuel, if they can demonstrate that the alternative fuel is being used in the vehicles. EPA will consider whether it is appropriate to retain this approach in the MYs 2017–2025 rulemaking, or to consider other approaches. NHTSA will continue to provide incentives for dual fueled vehicles as defined in statute.[32] Under the statute, for all dual fueled vehicles such as FFVs, the maximum credit that a manufacturer can apply to CAFE compliance will be limited to 0.6 mpg in 2017, 0.4 mpg in 2018, 0.2 mpg in 2019, and zero in MY 2020 or after. Dual fueled electric vehicles, such as PHEVs, are not subject to this limitation.

For EVs and PHEVs, manufacturers have generally expressed strong support for a tailpipe-only CO_2 measurement approach in the form of a 0 g/mile compliance value for electric operation for the MY 2017–2025 program. Some manufacturers also expressed support for additional credits in the form of "bonus" credits or multipliers for EVs and PHEVs. EPA proposed a credit multiplier for MYs 2012–2016 electricity-based advanced technology vehicles but did not finalize it, for a number of reasons described in the preamble to the Final Rule.[33] Some environmental and public interest groups expressed concern that the 0 g/mi value does not capture upstream emissions from the charging of electrified vehicles, and believe an upstream emissions factor should be included in the compliance calculation for electrified vehicles. The agencies understand that the treatment of upstream emissions generated in the production of electricity and other energy sources used to fuel vehicles in GHG compliance calculations is an important issue for the upcoming rulemaking. EPA will fully evaluate this issue for the MY 2017–2025 Joint NPRM based on the status of commercialization of EVs, PHEVs, and FCVs, the potential of these technologies to provide long-term GHG emissions savings, the status of and outlook for upstream GHG control programs, and other relevant factors. For CAFE, NHTSA will continue to follow EPCA/EISA statutory guidance to calculate fuel economy for EVs and PHEVs, and will continue to use a petroleum-equivalency factor (PEF) defined by the DOE to determine fuel economy for EVs and a PEF and incentives for dual fueled automobiles that are defined in 49 U.S.C. 32905(b) for PHEVs.

3. Other Key Issues

a. Duration of NHTSA CAFE Standards

EPCA/EISA states that "The Secretary [of Transportation] shall * * * issue regulations under this title prescribing average fuel economy standards for at least 1, but not more than 5, model years." NHTSA is assessing how rulemaking will be structured to support the MYs 2017–2025 National Program. In particular, we are examining how to ensure that CAFE standards for MY 2017–MY 2025, while harmonized with final EPA greenhouse gas emissions standards, would still meet the independent standards development framework of EPCA/EISA.

b. Potential Mid-Term Standards Review

Many OEMs have stressed the importance of a mid-term technology review that would occur after the MYs 2017–2025 standards are promulgated.[34] Some OEMs believe the future standards, especially those for MY 2020 and beyond, should be reevaluated at some future point based on the actual progress of advanced vehicle technology development. Several environmental groups emphasized that a mid-term technology review, if conducted, should not undermine innovation, and may not be necessary if the MYs 2017–2025 standards can be achieved through multiple technology pathways. The agencies believe it is appropriate to consider a mid-term technology review. As we develop the proposed standards, the agencies will consider the potential form that such a review could take as well as other potential ways to address the issues of uncertainty in longer-term standards setting.

c. Non-Regulatory Incentives

The agencies recognize that there are many non-regulatory approaches, outside of the scope of this rulemaking, that can help promote the successful commercialization of low-GHG light-duty vehicle technologies. Some automaker stakeholders told the agencies that federal and state income tax credits and grants, targeted at consumers who purchased new advanced technology vehicles, played an important role in sparking the initial market for conventional hybrid electric vehicles, and could play an even more

[29] *See* Chapter 6 and Appendix D of the TAR.

[30] *See* 75 FR 25438–440 for more on the Federal Test Procedure and Highway Fuel Economy Test.

[31] *See* 75 FR 25434.

[32] *See* 49 U.S.C. 32905 and 49 U.S.C. 32906.

[33] *See* 75 FR 25434–437.

[34] The May 19, 2010 support letters from OEMs and the two major automotive trade associations also supported the concept of a mid-term technology review.

important role in promoting future technologies such as plug-in hybrid electric and dedicated battery electric vehicles as well. Additional examples of non-regulatory approaches include federal research and development activities, federal financial assistance to the private sector to support research and development, vehicle and component manufacturing capacity, and infrastructure to support advanced technologies, and non-economic incentives such as use of high occupancy vehicle lanes and preferential parking, which are typically local decisions. While these are useful approaches for promoting low GHG technologies they cannot be accomplished by the agencies in the upcoming rulemaking.

III. EPA's Evaluation of Need for Potential Further Standards for Criteria Pollutants and Gasoline Fuel Quality

In addition to addressing GHGs and fuel consumption, the May 21, 2010 Presidential Memorandum also requested that EPA examine its broader motor vehicle air pollution control program. In the Memorandum, the President requested that "*[t]he Administrator of the EPA review for adequacy the current nongreenhouse gas emissions regulations for new motor vehicles, new motor vehicle engines, and motor vehicle fuels, including tailpipe emissions standards for nitrogen oxides and air toxics, and sulfur standards for gasoline. If the Administrator of the EPA finds that new emissions regulations are required, then I request that the Administrator of the EPA promulgate such regulations as part of a comprehensive approach toward regulating motor vehicles. * * **"

EPA is currently in the process of conducting an assessment of the potential need for additional controls on light-duty vehicles' non-greenhouse gas emissions and gasoline fuel quality. EPA will engage in technical conversations with the automobile industry, the oil industry, non-governmental organizations, the states, and other stakeholders on the potential need for new regulatory action, including the areas that are specifically mentioned in the Presidential Memorandum. EPA expects to coordinate the timing of any final action on new non-greenhouse gas emissions regulations for light-duty vehicles and gasoline with the final action on greenhouse gas emissions and CAFE regulations discussed in this Notice of Intent.

IV. Conclusions

EPA and NHTSA believe that the recent final rule addressing MYs 2012–2016 light-duty vehicle GHG emissions and fuel economy provides an important starting point for developing a continued National Program for MY 2017 and later vehicles. The agencies have received important input from a range of stakeholders to inform the extension of the National Program to MYs 2017–2025. Auto manufacturers, states, environmental groups and the United Auto Workers have expressed support for a continuation of the National Program. All auto firms are seriously committed to developing advanced technologies which can reduce fuel consumption and GHGs significantly beyond the MYs 2012–2016 standards. Manufacturers are developing many technologies that would enable them to eventually achieve appreciable improvements in fuel economy levels, including advanced gasoline engines, hybrid electric vehicles, EVs, and PHEVs.

As discussed in Section III above, the agencies and CARB have performed an initial assessment of potential stringencies with annual reductions in the range of 3 to 6% per year, or 47 to 62 mpg-equivalent in 2025, which demonstrates that substantial reductions in fuel consumption and GHGs can be achieved with the use of advanced technologies. EPA and NHTSA emphasize that this is an initial assessment, and significant data and additional analysis will be done to support the future joint Federal rulemaking.

EPA and NHTSA will continue to meet with stakeholders and assess new technical information as we develop the new proposed program. Over the next two months, EPA and NHTSA will work to update our analysis of potential standards for 2017–2025. EPA and NHTSA will work closely with CARB in developing and reviewing additional technical data and information as part of conducting this more refined joint analysis. EPA and NHTSA expect to issue, by the end of November 2010, a Supplemental Notice of Intent that will outline additional details regarding the design of a National Program, including a more refined analysis of potential scenarios for MY 2017–2025 standards for GHGs and fuel economy. The agencies expect to issue a joint proposed rulemaking by September 30, 2011 and to issue a final rule by July 31, 2012.

Dated: September 30, 2010.

Ray LaHood,

Secretary, Department of Transportation.

Dated: September 30, 2010.

Lisa P. Jackson,

Administrator, Environmental Protection Agency.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010-0003; Internal Agency Docket No. FEMA–B–1137]

Proposed Flood Elevation Determinations

Correction

In proposed rule document 2010–24144 beginning on page 59181 in the issue of Monday, September 27, 2010, make the following corrections:

§67.4 [Corrected]

1. On page 59182, in § 67.4, the table which begins three lines from the bottom of the page is corrected to have a centered heading above the first row of the table, which should read "**Putnam County, New York (All Jurisdictions)**".

2. On page 59183, in § 67.4, the table on that page is corrected to have a centered heading above the row of that table whose first column entry reads "East Branch Tunungwant Creek.", which should read "**McKean County, Pennsylvania (All Jurisdictions)**".

[FR Doc. C1–2010–24144 Filed 10–12–10; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010-0003; Internal Agency Docket No. FEMA–B–1140]

Proposed Flood Elevation Determinations

Correction

In proposed rule document 2010–24370 beginning on page 60013 in the issue of Wednesday, September 28, 2010, make the following corrections:

§67.4 [Corrected]

1. On page 60015, in § 67.4, the second table on that page is corrected to have a centered heading above the row of that table whose first column entry reads "Yellowstone River", which should read "**Park County, Montana, and Incorporated Areas**".

2. On page 60016, in § 67.4, in the second table on that page, is corrected to have a centered heading above the row of that table whose first column entry reads "Armstrong Creek", which should read "**Ellis County, Texas, and Incorporated Areas**".

[FR Doc. C1–2010–24370 Filed 10–12–10; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1151]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before January 11, 2011.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1151, to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *roy.e.wright@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *roy.e.wright@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)	
				Existing	Modified
Unincorporated Areas of Claiborne County, Tennessee					
Tennessee	Unincorporated Areas of Claiborne County.	Clinch River	Approximately 2.3 miles downstream of Big Barren Creek.	+1055	+1032

State	City/town/county	Source of flooding	Location **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)	
				Existing	Modified
			Approximately 28 miles upstream of Big Sycamore Creek.	None	+1032

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Claiborne County

Maps are available for inspection at the Claiborne County Courthouse, 1740 Main Street, Tazewell, TN 37879.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Collier County, Florida, and Incorporated Areas				
Gulf of Mexico	At Monroe County	+5	+6	City of Everglades City, City of Marco Island, City of Naples, Unincorporated Areas of Collier County.
	At Lee County	+18	+16	
Shallow Flooding	An area bounded by the Lee County boundary to the north, Immokalee Road to the south, Little Hickory Bay to the west, and I–75 to the east.	+10–13	+9–14	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by I–75 to the north, 112th Street to the south, Collier Road to the west, and Patterson Road to the east.	+5	+12	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by the Lee County boundary to the north, County Road 858 to the south, Everglades Road to the west, and County Road 858 to the east.	None	+16–39	Seminole Tribe of Florida, Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by County Road 858 to the north, I–75 to the south, Everglades Road to the west, and State Route 29 to the east.	None	+11–21	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Bluebill/Immokalee Road to the north, Vanderbilt Beach Road to the south, Vanderbilt Road to the west, and I–75 to the east.	+9–12	+9–13	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Vanderbilt Beach Road to the north, Pine Ridge Road to the south, Tamiami Trail to the west, and I–75 to the east.	None	+9–18	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Pine Ridge Road to the north, Radio Road to the south, Tamiami Trail to the east, and I–75 and Collier Road to the west.	+7–10	+8–18	City of Naples, Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Radio Road to the north, Tamiami Trail to the south, Tamiami Trail to the west, and Collier Road to the east.	+6	+8–12	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by the Lee County boundary to the north, Immokalee Road to the south, I–75 to the east, and Quarry Road to the west.	None	+10–14	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by Immokalee Road to the north, I–75 to the south, I–75 to the east, and Collier Road to the west.	None	+10–15	Unincorporated Areas of Collier County.
Shallow Flooding	An area bounded by the Lee County boundary to the north, Immokalee Road and Randall Road to the south, Quarry Road and the Lee County boundary to the west, and Everglades Road to the east.	None	+12–30	Unincorporated Areas of Collier County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Shallow Flooding	An area bounded by Immokalee Road and Randall Road to the north, Blackburn Road to the south, I–75 to the west, and Everglades Road to the east.	None	+11–15	Unincorporated Areas of Collier County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Everglades City
Maps are available for inspection at 102 Broadway Avenue, Everglades City, FL 34139.

City of Marco Island
Maps are available for inspection at 50 Bald Eagle Drive, Marco Island, FL 34145.

City of Naples
Maps are available for inspection at 735 8th Street South, Naples, FL 34102.

Seminole Tribe of Florida
Maps are available for inspection at 6300 Stirling Road, Hollywood, FL 33024.

Unincorporated Areas of Collier County
Maps are available for inspection at 3301 East Tamiami Trail, Building F, 1st Floor, Naples, FL 34112.

Alpena County, Michigan (All Jurisdictions)

Lake Huron	From approximately 1.3 miles northwest of the intersection of Rockport Road and Old Grade Road, to approximately 700 feet southeast of the intersection of S State Avenue and Mason Street.	None	+583	City of Alpena, Township of Alpena.
Lake Huron	From approximately 1,000 feet northeast of the intersection of Curtis Drive and U.S. Route 23, to approximately 4.5 miles southeast of the intersection of Wilds Road and Brousseau Road.	None	+583	Township of Sanborn.
Long Lake	Entire shoreline within Alpena County	None	+651	Township of Alpena.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Alpena
Maps are available for inspection at 208 North 1st Avenue, Alpena, MI 49707.

Township of Alpena
Maps are available for inspection at 4385 U.S. Route 23 North, Alpena, MI 49707.

Township of Sanborn
Maps are available for inspection at 10068 Ossineke Road, Ossineke, MI 49766.

Mercer County, North Dakota, and Incorporated Areas

Antelope Creek	Approximately 0.85 mile upstream of the confluence with East Hazen Tributary (Reach #6).	+1740	+1739	City of Hazen, Unincorporated Areas of Mercer County.
	Approximately 0.55 mile upstream of the confluence with Upstream Hazen Tributary (Reach #2).	+1756	+1755	
East Hazen Tributary (Reach #6).	Just upstream of the confluence with Antelope Creek	None	+1736	City of Hazen, Unincorporated Areas of Mercer County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 1,680 feet upstream of the confluence with Antelope Creek.	None	+1737	
Upstream Hazen Tributary (Reach #2).	Just upstream of the confluence with Antelope Creek	None	+1752	City of Hazen, Unincorporated Areas of Mercer County.
	Approximately 1,050 feet upstream of the confluence with Antelope Creek.	None	+1752	
West Hazen Tributary (Reach #4).	Just upstream of the confluence with Antelope Creek	None	+1750	City of Hazen.
	Approximately 300 feet upstream of Divide Street	None	+1764	
West Hazen Tributary to Knife River.	Just upstream of the confluence with the Knife River	None	+1743	City of Hazen, Unincorporated Areas of Mercer County.
	Approximately 70 feet upstream of 13th Avenue West	None	+1755	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Hazen

Maps are available for inspection at 146 Main Street East, Hazen, ND 58545.

Unincorporated Areas of Mercer County

Maps are available for inspection at 1021 Arthur Street, Stanton, ND 58571.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 21, 2010.

Edward L. Connor,

Acting Federal Insurance and Mitigation Administrator, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2010–25664 Filed 10–12–10; 8:45 am]

BILLING CODE 9110–12–P

Notices

Federal Register

Vol. 75, No. 197

Wednesday, October 13, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Notice of Public Meeting of the Committee on Regulation

AGENCY: Administrative Conference of the United States.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Administrative Conference of the United States will host a second public meeting of the Committee on Regulation of the Assembly of the Conference on Tuesday, November 2, 2010 from 9:30 a.m. to 12:30 p.m. to discuss a proposed recommendation for improved agency procedures for determining whether to preempt state law. To facilitate public participation, the Administrative Conference is inviting public comment on the recommendation that will be considered at the meeting, to be submitted in writing no later than October 28, 2010.

DATES: Meeting to be held November 2, 2010. Comments must be received by October 28, 2010.

ADDRESSES: Meeting to be held at Administrative Conference of the United States, Suite 706 South, 1120 20th Street, NW., Washington, DC 20036. Submit comments to either of the following:

(1) *E-mail: Comments@acus.gov,* with "Preemption Recommendation" in the subject line; or

(2) *Mail:* Preemption Recommendation Comments, Administrative Conference of the United States, Suite 706 South, 1120 20th Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Emily F. Schleicher, Designated Federal Officer, Administrative Conference of the United States, Suite 706 South, 1120 20th Street, NW., Washington, DC 20036; Telephone 202–480–2080.

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States (ACUS) is charged with developing recommendations for the improvement of Federal administrative procedures (5 U.S.C. 591). The objectives of these recommendations are to ensure that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest, to promote more effective public participation and efficiency in the rulemaking process, to reduce unnecessary litigation in the regulatory process, to improve the use of science in the regulatory process, and to improve the effectiveness of laws applicable to the regulatory process.

The Conference has engaged a Professor of Law at New York University School of Law, Catherine M. Sharkey, to research and prepare a report regarding the best practices of federal agencies in obtaining input from state and local governments and other procedures for determining whether to preempt state law (the "Preemption Report"). The Committee on Regulation is already scheduled to meet on October 19, 2010 to discuss the Preemption Report, a copy of which is available at *http://www.acus.gov.* The Committee on Regulation has been tasked with reviewing this report and developing recommendations for consideration by the Assembly of the Conference. A draft recommendation will be prepared based upon the Preemption Report (the "Preemption Recommendation").

From 9:30 a.m. to 2:30 p.m. on November 2, 2010, the Committee on Regulation will hold a second public meeting to consider the Preemption Recommendation. This meeting will be open to the public and may end prior to 12:30 p.m. if business is concluded prior to that time. Members of the public are invited to attend the meeting in person, subject to space limitations, and the Conference will also provide remote public access to the meeting. A copy of the Preemption Recommendation will be available at *http://www.acus.gov.*

Anyone who wishes to attend the meeting in person is asked to RSVP to *Comments@acus.gov.* Remote access information will be posted on the Conference's Web site, *http://www.acus.gov,* by no later than October 29, 2010, and will also be available by the same date by calling the phone number listed above. Members of the public who attend the Committee's meeting may be permitted to speak only at the discretion of the Committee Chair, with unanimous approval of the Committee. The Conference welcomes the attendance of the public and will make every effort to accommodate persons with physical disabilities or special needs. If you need special accommodations due to a disability, please inform the Designated Federal Officer no later than 7 days in advance the meeting using the contact information provided above.

Members of the public may submit written comments on the Preemption Recommendation to either of the addresses listed above no later than October 28, 2010. All comments will be delivered to the Designated Federal Officer listed on this notice. The Designated Federal Officer will post all comments that relate to the Preemption Recommendation on the Conference's Web site after the close of the comments period.

Dated: October 7, 2010.

Paul R. Verkuil,

Chairman.

[FR Doc. 2010–25731 Filed 10–12–10; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Mt. Hood National Forest, Oregon; Cooper Spur-Government Camp Land Exchange

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The proposed action includes the conveyance of approximately two parcels totaling 120 acres of National Forest System (NFS) land adjacent to Government Camp in exchange for the acquisition of approximately 770 acres of land owned by Mt. Hood Meadows Oreg., LLC, in Hood River County, Oregon.

DATES: Comments concerning the scope of the analysis must be received by November 29, 2010. The draft environmental impact statement is expected January, 2012 and the final

environmental impact statement is expected June, 2012.

ADDRESSES: Send written comments to Mt. Hood National Forest, 16400 Champion Way, Sandy, OR 97055. Comments may also be sent via e-mail to *comments-pacificnorthwest-mthood@fs.fed.us,* or via facsimile to (503) 668–1413.

FOR FURTHER INFORMATION CONTACT: Kristy Boscheinen, Forest Planner, Mt. Hood National Forest, at (503) 668–1645 or by e-mail at *kboscheinen@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the proposed land exchange between the Mt. Hood National Forest and Mt. Hood Meadows Oreg., LLC is to comply with the Omnibus Public Land Management Act of March 30, 2009 (123 Stat. 991, Pub. L. 111–11), which provides direction for this land exchange.

Proposed Action

The proposed action includes the conveyance of approximately two parcels totaling 120 acres of National Forest System (NFS) land adjacent to Government Camp in exchange for the acquisition of approximately 770 acres of land owned by Mt. Hood Meadows Oreg., LLC, in Hood River County, Oregon.

The Omnibus legislation states that a conservation easement shall be placed on a portion of the Government Camp parcels in order to protect an existing wetland, and that the easement shall allow "equivalent mitigation measures to compensate for minor wetland encroachments necessary for the orderly development of the Federal land." (Pub. L. 111–11, 129 Stat. 1019) The legislation also states that a trail easement be used at the Government Camp parcels to allow nonmotorized public access to existing trails, to allow roads, utilities, and infrastructure facilities to cross the trails, and to allow for the improvement or relocation of the trails to accommodate development of the federal land.

The Omnibus legislation also directed that the majority of the acquired lands be placed into a new management unit called the "Crystal Springs Watershed Special Resources Management Unit.

Responsible Official

The Responsible Official is the Regional Forester, USDA Forest Service Pacific Northwest Region.

Preliminary Issues

A preliminary analysis of potential effects to resource areas including wildlife, fisheries, water quality, wetlands and floodplains, and cultural/historic sites revealed the following preliminary issues:

(1) Camp Creek and an intermittent tributary of Camp Creek run through the Federal parcels. Neither reach of the stream is fish bearing. Camp Creek is not 303(d)-listed, but it does have water quality problems associated with Government Camp (such as sewage and runoff from the roads). Depending on the type and quality of development that might occur on the parcels after the exchange, the water quality could further decrease. However, the impacts of development should be lessened by the Congressionally-mandated conservation easement on the wetland, through which the streams flow. Detailed information is not available regarding fisheries or water quality on the non-Federal parcel.

Surveys for wetlands and floodplains on both parcels have been completed and are being reviewed. Wetlands are present on the Federal parcels, and narrow, stream-associated wetlands exist on the non-Federal parcel. It appears that the Forest Service will be conveying more wetlands than would be acquired.

Executive Order 11990 requires no net loss of wetlands. The Forest Hydrologist will be involved to consider possible mitigation measures.

In the Omnibus bill (a)(G)(i), Congress mandated that a conservation easement, as identified by the Oregon Department of State Lands, would be placed upon the wetlands at Government Camp. The easement would protect the wetland and allow for equivalent wetland mitigation measures necessary for the orderly development of the conveyed land. The acquisition of the wetlands at Cooper Spur and the easement on the wetlands at Government Camp may result in no net loss of wetlands.

Cultural and Heritage resource surveys were conducted on the Federal parcel. The survey revealed the potential for an adverse effect to a site of archaeological/cultural interest. Mitigation measures will be developed with Tribal and State Historic Preservation Officer (SHPO) consultation.

Trails 755, 755A, and 755B cross the Federal parcels. A trail easement has been congressionally mandated, so that non-motorized users would continue to be able to use the trails to get to Federal land, so that roads, utilities, and infrastructure facilities could be built across the trails, and to allow for improvement or relocation of the trails so that development of the conveyed parcels could occur. While the trails (or relocated trails) would still exist, the recreation experience could be negatively impacted by new development (such as buildings and parking lots) or the presence of new infrastructure.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. A public scoping meeting will be held in or near Portland, Oregon, on October 26th, 2010, from 5 to 7 p.m. The location is to be determined. When the location is determined, the public will be notified via the Mt. Hood National Forest's Web site and a news release.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: October 6, 2010.

Kathryn J. Silverman,

Acting Forest Supervisor.

[FR Doc. 2010–25698 Filed 10–12–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

DEPARTMENT OF AGRICULTURE

Forest Service

Superior National Forest, Minnesota

Intent to prepare a supplemental draft environmental impact statement for the construction and operation of an open pit copper/nickel/cobalt/precious metals mine, an ore processing plant, and tailings basin proposed by PolyMet

Mining, Inc., near Babbitt and Hoyt Lakes in St. Louis County, Minnesota. The supplement will add an analysis of a land exchange between the proponant and the US Forest Service, Superior National Forest.

AGENCIES: Department of the Army, US Army Corps of Engineers, Department of Defense; Forest Service, USDA.

ACTION: Notice of intent (NOI) to prepare a supplemental draft environmental impact statement (SDEIS). (The original NOI to prepare a draft EIS for the proposed Polymet Mining, Inc. Northmet project was published by the US Army Corps of Engineers in Volume 70, Number 126 of the **Federal Register**, pages 38,122–38,123, July 1, 2005.)

SUMMARY: The SDEIS will supplement and supersede the Draft EIS of October 27, 2009 (DEIS), which was produced jointly by the US Army Corps of Engineers (USACE) and the Minnesota Department of Natural Resources (MNDNR), released for public comment on November 6, 2009. The SDEIS will respond to concerns about wetlands and water quality issues associated with the NorthMet mining and ore processing proposal, located in Northeast Minnesota, as identified by the US Environmental Protection Agency and other commentors. The SDEIS will also incorporate potential effects from a proposed land exchange between the USDA Superior National Forest (SNF) and PolyMet Mining, Inc. (PolyMet). The SNF will join the USACE and MNDNR as a third lead agency responsible for EIS preparation because the land where the mine is proposed is owned by the SNF.

Cooperating Agencies for preparation of the SDEIS include Minnesota Bands of Chippewa/Ojibwe (Bois Forte and Fond du Lac). Others who have requested to become cooperating agencies include the United States Environmental Protection Agency (USEPA) and the Grand Portage Band of Chippewa/Ojibwe. Federal laws and policies, which the joint lead agencies are required to consider, will be outlined in the EIS for both mine permiting and land exchange processes.

DATES: The SNF is currently developing scoping materials for the land exchange portion of this project. This scoping package will be sent to interested parties for a 45-day comment period, anticipated to occur in October and November of 2010. The USACE and the SNF will use these scoping comments to identify significant issues that will guide the analysis of impacts associated with the land exchange. The scoping package will also be available for review, along with supplemental large scale maps, on the internet at the following Web site: *www.fs.usda.gov/goto/superior/projects*.

The Supplemental DEIS is expected in the summer of 2011, with the final environmental impact statement anticipated six-to-nine months later.

ADDRESSES: *Mining and Ore Processing Proposal:* No additional scoping requested.

Land Exchange: Send written comments regarding the land exchange to James W. Sanders, Forest Supervisor, 8901 Grand Avenue Place, Duluth, MN 55808. Written comments may also be submitted electronically to: comments-eastern-superior@fs.fed.us, or by fax to (218) 626–4398.

FOR FURTHER INFORMATION CONTACT: *Mining and Ore Processing Proposal:* Contact Mr. Jon K. Ahlness for issues associated with the mining proposal, Section 404 Wetlands issues, and Clean Water Act questions; by letter at U.S. Army Corps of Engineers, 180 Fifth Street East, Suite 700, St. Paul, MN 55101–1678, by telephone at 651–290–5381, or by e-mail at *jon.k.ahlness@usace.army.mil*.

Land Exchange: Contact Mark Hummel, SNF Deputy Forest Supervisor, for additional information or questions about the proposed land exchange, by letter at 8901 Grand Avenue Place, Duluth, MN 55808, by e-mail at *mhummel@fs.fed.us,* or by phone at 218–626–4303.

SUPPLEMENTARY INFORMATION:

Mining and Processing Proposal

Purpose and Need for Action

The purpose and need of the NorthMet mining and ore processing project is to produce base and precious metals, precipitates, and flotation concentrates from ore mined at the NorthMet deposit by uninterrupted operation of the former LTVSMC processing plant site. The processed resources would help meet domestic and global demand by sale of these products to domestic and world markets.

Proposed Action

PolyMet has applied to the St. Paul District of the USACE for a permit to discharge fill material into waters of the United States, including jurisdictional wetlands, to facilitate the construction and operation of an open pit copper/nickel/cobalt/precious metals mine in the low grade poly-metallic disseminated magmatic sulfide NorthMet deposit in northeastern Minnesota, approximately 6 miles south of the town of Babbitt.

Responsible Official and Nature of Decision To Be Made

The responsible official for the USACE, the District Engineer for the St. Paul District, will decide in a Record of Decision, whether to issue a Clean Water Act, Section 404 permit for the discharge of fill materials into the waters of the United States, including jurisdictional wetlands.

No Additional Scoping for Mining and Processing Proposal

USACE and SNF are not requesting scoping comments on the NorthMet mining and ore processing project at this time. Comments have already been received in response to the original scoping notice of October 25, 2005, and in response to the Draft EIS of October 27, 2009. The proposed mining and ore processing action still falls within the scope of analysis identifed in the October 25, 2005, Final Scoping Decision Document, produced jointly with the MNDNR. Scoping will be conducted for the land exchange.

SUPPLEMENTARY INFORMATION:

Land Exchange

Purpose and Need for Action

The purpose and need for the land exchange is to eliminate conflicts between the United States and the private mineral estate. (The SNF has concluded that the proponent does not have the right to remove the surface of public lands by operating an open pit mine unless the lands in question were exchanged into private ownership. PolyMet maintains that specific language in the mineral reservation allows open pit mining.)

Another purpose and need for the land exchange is to consolidate land ownership so as to improve management effectiveness, improve public access to federal lands and reduce boundary lines.

The proposal meets three Forest Service Strategic Plan Goals: (1) Provide and sustain benefits to the American people (desired outcome is forests with sufficient long-term multiple socioeconomic benefits to meet the needs of society); (2) conserve open space; and (3) sustain and enhance outdoor recreation opportunities.

Of the approximately 6,650 acres of land proposed for exchange to private ownership, the NorthMet mine site would encompass approximately 2,840 acres. The remaining federal property proposed for inclusion in the land exchange, approximately 3,810 acres, would improve intermingled and inefficient ownership patterns and eliminate conflicts if minerals

development were to expand in the future. Many of these federal lands are adjacent to lands extensively impacted by past and ongoing mining activities.

The nonfederal lands offered for consideration by PolyMet are located throughout the SNF and compliment existing federal ownership by eliminating or reducing private inholdings. The non-federal tracts consist of forest and wetland habitat as well as some lake frontage, potentially enhancing public recreation opportunities.

Proposed Action

The proposed action is a land exchange between the United States of America, acting through the Forest Service, U.S. Department of Agriculture SNF and PolyMet. The land exchange would transfer approximately 6,650 acres of federal land from public to private ownership, and approximately 6,722 acres of land from private to public ownership. An in-depth analysis of this proposed exchange will be disclosed in the supplemental draft and final environmental impact statements for the NorthMet project. The NorthMet project is described in the October 27, 2009 Draft EIS developed by MNDNR and USACE.

This exchange is proposed under the authority of the Weeks Act of March 1, 1911 as amended; General Exchange Act of March 20, 1922; Federal Land Exchange Facilitation Act of 1988; and the Federal Land, Policy and Management Act of October 21, 1976.

The federal land consists of a single contiguous tract of mostly forested land, approximately 6,650 acres in size, located in the west/central part of the SNF on the Laurentian Ranger District in the historic Iron Range of Northeastern Minnesota. The tract lies immediately south of the SNF proclamation boundary and is bounded on the south by the former LTV Steel Mining Company (LTVSMC) railroad grade and the Dunka Road. The Dunka Road is a private road with sections owned and leased by Cliffs Erie, PolyMet and Minnesota Power. Access is primarily via the Dunka Road and the LTVSMC railroad grade.

Nonfederal properties to the north and west of the federal land have been extensively impacted over the years by open-pit mining, mine waste rock stockpiles, tailings basins, mine processing facilities, railroad grades, and general mining activities. The federal land encompasses many acres of the 100-mile Swamp, a large black spruce, tamarack and cedar wetland. Yelp Creek and the Partridge River flow through the tract. Mud Lake is also located on the federal land.

The nonfederal lands include five different tracts of land that total approximately 6,722 acres and include predominately forest and wetland habitat.

The largest nonfederal tract, identified as Tract 1, consists of approximately 4,650 acres (Hay Lake tract), located on the southeastern portion of the Laurentian Ranger District, west of and adjoining County Road 715 and north of the town of Biwabik in St. Louis County. The Hay Lake tract includes Hay Lake, identified as a Wild Rice Water by the MnDNR, and Little Rice Lake, which is used by trumpeter swans, a State Threatened species. Approximately eight miles of the upper Pike River flow through Tract 1.

Tract 2 ("Lake County lands") consists of approximately 320 acres of land formerly owned by Lake County. The tract includes various 40-acre parcels on the Laurentian Ranger District southeast of Seven Beaver Lake that are mostly surrounded by National Forest lands and offer significant wetland habitat.

Tract 3 ("Wolf Lands") consists of approximately 1,560 acres of land on the Laurentian and Tofte Ranger Districts, west and southwest of Isabella, MN. The tract includes four separate parcels that block in or compliment National Forest ownership and, like Tract 2, offer significant wetland habitat.

Tract 4 ("Hunting Club" lands) consists of approximately 160 acres on the LaCroix Ranger District, 5 miles southwest of Crane Lake. Two small unnamed lakes are partially included in the tract, as well as a large percentage of wetland habitats. Tract 4 is surrounded by National Forest, St. Louis County lands, and private ownership.

Tract 5 ("McFarland Lake") consists of approximately 32 acres on the Gunflint Ranger District in northeastern Cook County. The tract blocks in National Forest ownership and includes lake-front property on McFarland Lake, an entry point to the Boundary Waters Canoe Area Wilderness. Access to the property is available by water from a landing off County Road 16 (Arrowhead Trail) approximately ten miles north of Hovland, MN. All tracts were assembled by PolyMet for the purpose of this proposed exchange.

Responsible Official and Nature of Decision to be Made

The Responsible Official for the proposed land exchange is the Forest Supervisor for the SNF. The Responsible Official will decide in a Record of Decision whether the proposed land exchange would result in an overall benefit to the public good.

Scoping Process

Public scoping for the proposed SNF and PolyMet land exchange will include notices in the newspaper of record, mailing of the scoping package (detailed information of the purpose and need for the project, the proposed action, description of the project area, maps, and proposed federal and non-federal lands involved in the proposed exchange) to interested and affected publics and posting of the project on the agency's project planning web pages and notice in the Forest Service quarterly Schedule of Proposed Actions.

Comment Requested

This notice of intent initiates the scoping process which guides the development and incorporation of the proposed land exchange into the Northmet Project environmental impact statement. Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21).

Dated: September 29, 2010.

Tamara E. Cameron,

Chief, Regulatory Branch, St. Paul District, Corps of Engineers.

Dated: October 4, 2010.

James W. Sanders,

Forest Supervisor, USDA Superior National Forest.

[FR Doc. 2010–25755 Filed 10–12–10; 8:45 am]

BILLING CODE 3140–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fresno County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Fresno County Resource Advisory Committee will be meeting in Prather, California, November 17, 2010 and in Clovis, California, December 15, 2010. The purpose of the meetings will be to accept and review project proposals for the next funding cycle as well as review prior year accomplishments.

DATES: The meeting will be held on November 17, 2010 from 6 p.m. to 8:30 p.m. and December 15, 2010 from 6 p.m. to 8:30 p.m.

ADDRESSES: The meeting on November 17th will be held at the High Sierra Ranger District, 29688 Auberry Rd., Prather, CA. The meeting on December 15th will be held at the Sierra National Forest Supervisor's Office, 1600 Tollhouse Rd., Clovis, CA. Send written comments to Robbin Ekman, Fresno County Resource Advisory Committee Coordinator, c/o Sierra National Forest, High Sierra Ranger District, 29688 Auberry Road, Prather, CA 93651 or electronically to *rekman@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Robbin Ekman, Fresno County Resource Advisory Committee Coordinator, (559) 855–5355 ext. 3341.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Payments to States Fresno County Title II project matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Agenda items to be covered include: (1) Accept new project proposals and (2) Discuss accomplishments of previous projects.

Dated: October 4, 2010.

Ray Porter,

District Ranger.

[FR Doc. 2010–25588 Filed 10–12–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Virginia State Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in the Virginia NRCS State Technical Guide for review and comment.

SUMMARY: It has been determined by the NRCS State Conservationist for Virginia that changes must be made in the NRCS State Technical Guide specifically in the following practice standards: #314, Brush Management, #324, Deep Tillage, #330, Contour Farming, #332, Contour Buffer Strips, #344, Residue Management, Seasonal, #346, Residue Management, Ridge Till, #380, Windbreak/Shelterbelt Establishment, #484, Mulching, #512, Forage & Biomass Planting, and #603, Herbaceous Wind Barriers. These practices will be used to plan and install conservation practices.

DATES: Comments will be received for a 30-day period commencing with this date of publication.

FOR FURTHER INFORMATION CONTACT: John A. Bricker, State Conservationist, Natural Resources Conservation Service (NRCS), 1606 Santa Rosa Road, Suite 209, Richmond, Virginia 23229–5014; Telephone number (804) 287–1691; Fax number (804) 287–1737. Copies of the practice standards will be made available upon written request to the address shown above or on the Virginia NRCS Web site: *http://www.va.nrcs.usda.gov/technical/draftstandards.html.*

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Virginia will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Virginia regarding disposition of those comments and a final determination of change will be made to the subject standards.

Dated: October 4, 2010.

W. Ray Dorsett,

Acting State Conservationist, Natural Resources Conservation Service, Richmond, Virginia.

[FR Doc. 2010–25663 Filed 10–12–10; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Virginia State Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of Availability of proposed changes in the Virginia NRCS State Technical Guide for review and comment.

SUMMARY: It has been determined by the NRCS State Conservationist for Virginia that changes must be made in the NRCS State Technical Guide specifically in practice standards: #362, Diversion; #412, Grassed Waterway; #430, Irrigation Pipeline; #436, Irrigation Reservoir; #558, Roof Runoff Structure; #600, Terrace; #620, Underground Outlet; #313, Waste Storage Facility; #359, Waste Treatment Lagoon; #633, Waste Utilization; #638, Water and Sediment Control Basin. These practices will be used to plan and install conservation practices on cropland, pastureland, woodland, and wildlife land.

DATES: Comments will be received for a 30-day period commencing with the date of this publication.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to John A. Bricker, State Conservationist, Natural Resources Conservation Service (NRCS), 1606 Santa Rosa Road, Suite 209, Richmond, Virginia 23229–5014; Telephone number (804) 287–1691; Fax number (804) 287–1737. Copies of the practice standards will be made available upon written request to the address shown above or on the Virginia NRCS Web site: *http://www.va.nrcs.usda.gov/technical/draftstandards.html.*

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Virginia will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Virginia regarding disposition of those comments and a final determination of change will be made to the subject standards.

Dated: October 4, 2010.

John A. Bricker,

State Conservationist, Natural Resources Conservation Service, Richmond, Virginia.

[FR Doc. 2010–25662 Filed 10–12–10; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator of the Foreign Agricultural Service (FAS), denied a petition (No. 2011019) for trade adjustment assistance (TAA) for Tilapia filed under the fiscal year (FY) 2011 program by three producers on behalf of Tilapia producers in Arkansas. The petition was accepted for review by USDA on August 24, 2010.

SUPPLEMENTARY INFORMATION: To qualify under the program, Subtitle C of Title I of the Trade Act of 2002 (Pub. L. 107–210) states that petitions must demonstrate, using data for the most recent, full marketing year or full official marketing season, a greater than 15-percent decline in at least one of the following factors: national average price, quantity of production, value of production, or cash receipts.

According to the statute, it is also necessary for the petitions to demonstrate that an increase in imports of like or directly competitive articles, during the same marketing period, contributed importantly to the decrease in one of the above factors for the agricultural commodity.

All petitions were analyzed by USDA's Economic Research Service and reviewed by the TAA for Farmers Program Review Committee, comprised of representatives from USDA's Office of the Chief Economist, Farm Service Agency, Agricultural Marketing Service, and FAS. After a review, the Administrator determined that the petition was unable to demonstrate the "greater than 15-percent decline'' criterion, because it showed a 4.2-percent increase in the average annual price for 2009, when compared to the previous 3-year period. Additionally, the import data provided for the same time period showed a 15.7-percent decrease, instead of the required increase, under the program.

Because the petition was unable to meet the "greater than 15-percent decline'' criterion and the "increase in imports'' criterion, the Administrator was not able to certify the petition, making Tilapia producers in Arkansas ineligible for trade adjustment assistance in FY 2011.

FOR FURTHER INFORMATION CONTACT: Trade Adjustment Assistance for Farmers Program Staff, Office of Trade Programs, FAS, USDA, at (202) 720–0638, or (202) 690–0633, or by e-mail at: *tradeadjustment@fas.usda.gov,* or visit the TAA for Farmers' Web site at: *http://www.fas.usda.gov/itp/taa.*

Dated: October 5, 2010.

Suzanne Hale,

Administrator, Foreign Agricultural Service.

[FR Doc. 2010–25647 Filed 10–12–10; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), certified a petition (No. 2011015) for trade adjustment assistance (TAA) for blueberries filed under the fiscal year (FY) 2011 program by the Wild Blueberry Commission of Maine, on behalf of blueberry producers in Maine. The petition was accepted for review by USDA on August 13, 2010.

SUPPLEMENTARY INFORMATION: All petitions were analyzed by USDA's Economic Research Service and reviewed by the TAA for Farmers Program Review Committee, comprised of representatives from USDA's Office of the Chief Economist, Farm Service Agency, Agricultural Marketing Service, and FAS. After a review, the Administrator determined that increased imports of blueberries during January-December 2009 contributed importantly to a greater than 15-percent decline in the average annual price in 2009, compared to the previous 3-year average. This conforms to the eligibility requirements stipulated in Subtitle C of Title I of the Trade Act of 2002 (Pub. L. 107–210).

Because the petition met the program's eligibility criteria, the Administrator was able to certify it, making blueberry producers in Maine eligible for trade adjustment assistance in FY 2011.

Eligible individual blueberry producers in Maine may apply for technical training and cash benefits by completing and submitting a written application to their local Farm Service Agency county office by the application deadline of December 29, 2010. After submitting a completed application, producers may receive technical assistance at no cost and cash benefits, if the applicable program eligibility requirements are satisfied. Applicants must complete the technical assistance training under the program in order to be eligible for cash benefits.

PRODUCERS CERTIFIED AS ELIGIBLE FOR TAA FOR FARMERS CONTACT: Your local USDA Farm Service Agency county office.

FOR FURTHER GENERAL INFORMATION CONTACT: Trade Adjustment Assistance for Farmers Program Staff, Office of Trade Programs, FAS, USDA, at (202) 720–0638 or (202) 690–0633, or by e-mail at: *tradeadjustment@fas.usda.gov*, or visit the TAA for Farmers' Web site at: *http://www.taaforfarmers.org* or the FAS Web site at: *http://www.fas.usda.gov/itp/taa.*

Dated: October 5, 2010.

Suzanne Hale,

Administrator, Foreign Agricultural Service.

[FR Doc. 2010–25650 Filed 10–12–10; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: International Trade Administration; Committee for the Implementation of Textile Agreements.

Title: Procedures for Considering Requests from the Public for Textile and Apparel Safeguard Actions on Imports from Peru.

OMB Control Number: None.

Form Number(s): None.

Type of Request: Regular submission (new information collection).

Number of Respondents: 6 (1 for Request; 5 for Comments).

Average Hours per Response: 4 hours for a Request; and 4 hours for each Comment.

Burden Hours: 24.

Needs and Uses: Title III, Subtitle B, Section 321 through Section 328 of the United States-Peru Free Trade Agreement Implementation Act (the "Act") implements the textile and apparel safeguard provisions, provided for in Article 3.1 of the United States-Peru Free Trade Agreement (the "Agreement"). This safeguard mechanism applies when, as a result of the elimination of a customs duty under the Agreement, a Peruvian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In these circumstances, Article 3.1 permits the United States to increase duties on the imported article from Peru to a level that does not exceed the lesser of the prevailing U.S. normal trade relations (NTR)/most-favored-nation (MFN) duty

rate for the article or the U.S. NTR/MFN duty rate in effect on the day before the Agreement entered into force.

The Statement of Administrative Action accompanying the Act provides that the Committee for the Implementation of Textile Agreements (CITA) will issue procedures for requesting such safeguard measures, for making its determinations under section 322(a) of the Act, and for providing relief under section 322(b) of the Act.

In Proclamation No. 8332 (73 FR 80289, December 31, 2008), the President delegated to CITA his authority under Subtitle B of Title III of the Act with respect to textile and apparel safeguard measures.

CITA must collect information in order to determine whether a domestic textile or apparel industry is being adversely impacted by imports of these products from Peru, thereby allowing CITA to take corrective action to protect the viability of the domestic textile or apparel industry, subject to section 322(b) of the Act.

Affected Public: Individuals or households; business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Wendy Liberante, (202) 395–3647.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov.*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Wendy Liberante, OMB Desk Officer, Fax number (202) 395–5167 or via the Internet at *Wendy_L._Liberante@omb.eop.gov.*

Dated: October 6, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–25648 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Generic Clearance for Data User Evaluation Surveys.

Form Number(s): Various.

OMB Control Number: 0607–0760.

Type of Request: Extension of a currently approved collection.

Burden Hours: 30,000.

Number of Respondents: 360,000.

Average Hours per Response: Varies by survey.

Needs and Uses: The U.S. Census Bureau plans to extend for an additional three years its generic clearance to conduct customer/product-based research. This extension will allow us to continue to use customer satisfaction surveys, personal interviews, or focus group research to effectively improve and make more customer-oriented programs, products, and services.

Extended clearance for data collections would continue to cover customer/program-based research for any Census Bureau program area that needs to measure customer needs, uses, and preferences for statistical information and services. The customer base includes, but is not limited to previous, existing, and potential businesses and organizations, alternate Census Bureau data disseminators like State Data Centers, Business and Industry Data Centers, Census Information Centers, Federal or Census Depository Libraries, educational institutions, and not-for-profit or other organizations.

Information collected from customer research helps the Census Bureau to measure its customer base—their use, satisfaction, and preferences for existing and future programs, products and services.

Proposals for specific collections under this generic clearance are submitted to the Office of Management and Budget (OMB) for review a minimum of two weeks prior to their planned start date. A year-end report is submitted annually to OMB summarizing activity under the clearance for the preceding year.

Affected Public: Various.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Data Executive Order 12862.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: October 7, 2010.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–25692 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: United States Patent Applicant Survey.

Form Number(s): None.

Agency Approval Number: 0651–0052.

Type of Request: Extension of a currently approved collection.

Burden: 140 hours annually.

Number of Respondents: 400 responses per year, with an estimated 267 responses filed electronically.

Avg. Hours per Response: The USPTO estimates that it will take the public 30 minutes (0.50 hours) to complete the surveys, with the exception of the surveys for the independent inventors, which are estimated to take 15 minutes (0.25 hours) to complete. This includes the time to gather the necessary information, respond to the surveys, and submit them to the USPTO. The USPTO estimates that it will take the same amount of time to respond to the surveys, whether they are completed online or mailed to the USPTO.

Needs and Uses: The USPTO developed the United States Patent Applicant Survey as part of a continuing effort to better predict the future growth of patent application filings by understanding applicant intentions. The main purpose of this survey is to determine the number of application filings that the USPTO can expect to receive over the next three years from patent-generating entities, ranging from

large domestic corporations to independent inventors. The USPTO also uses this survey in response to the Senate Appropriations Report 106–404 (September 8, 2000), which directed the USPTO to "develop a workload forecast with advice from a representative sample of industry and the inventor community. There are two versions of the survey: one for large domestic corporations and small and medium-sized businesses and one for universities, non-profit research organizations, and independent inventors. The large domestic corporations, small and medium-sized businesses, universities, non-profit research organizations, and independent inventors responding to these surveys will provide the USPTO with the number of application filings that they plan to submit, in addition to providing general feedback concerning industry trends and the survey itself. The USPTO will use this feedback to anticipate demand and estimate future revenue flow more reliably; to identify input and output triggers and allocate resources to meet and understand customer needs; and to reassess output and capacity goals and realign organization quality control measures with applicant by division.

Affected Public: Businesses or other for-profits and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Nicholas A. Fraser, e-mail: *Nicholas_A_Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through the Information Collection Review page at *http://www.reginfo.gov.*

Paper copies can be obtained by:

- *E-mail: InformationCollection@uspto.gov.* Include "0651–0052 copy request" in the subject line of the message.
- *Fax:* 571–273–0112, marked to the attention of Susan K. Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before November 12, 2010 to Nicholas A. Fraser, OMB Desk Officer, via e-mail to *Nicholas_A_Fraser@omb.eop.gov* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Dated: October 6, 2010.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2010–25669 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Socio-Economic Assessment of Snapper Grouper Fisheries in the U.S. Caribbean

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 13, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Juan J. Agar, (305) 361–4218 or Juan.Agar@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

The National Marine Fisheries Service (NMFS) proposes to collect demographic, cultural, economic, and social information about the snapper-grouper fisheries in the U.S. Caribbean. The proposed survey also intends to inquire about industry's perceptions, attitudes and beliefs regarding the potential use of catch shares to manage these fisheries. The data gathered will be used to describe the current socio-economic condition of the fishery and offer insight into fishermen's concerns about a potential catch share program, which could be used to better tailor a potential program. In addition, the information collected will be used to strengthen and improve fishery management decision-making, satisfy legal mandates under Executive Order 12866, the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act, and other pertinent statutes.

II. Method of Collection

The socio-economic information sought will be collected via in-person, telephone and mail surveys.

III. Data

OMB Control Number: None.

Form Number: None.

Type of Review: Regular submission (new information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,200.

Estimated Time per Response: 1 hr.

Estimated Total Annual Burden Hours: 1,200.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 6, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–25668 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–801]

Ball Bearings and Parts Thereof From Germany: Amended Final Results of Antidumping Duty Administrative Review Pursuant to a Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 7, 2010, the United States Court of International Trade (CIT) sustained the Department of Commerce's (the Department) results of redetermination on remand concerning the final results of the administrative review of the antidumping duty order on ball bearings and parts thereof from Germany. *See SKF USA Inc.* v. *United States,* Slip Op. 10–76 (CIT 2010). The Department is amending the final results of the administrative review of the antidumping duty order on ball bearings and parts thereof from Germany covering the period of review May 1, 2006, through April 30, 2007, to reflect the CIT's order.

DATES: *Effective Date:* October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–3477 or (202) 482–4477.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 2008, the Department published the final results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof from France, Germany, Italy, Japan, and the United Kingdom for the period May 1, 2006, through April 30, 2007. *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823 (September 11, 2008).

SKF USA Inc., SKF France S.A., SKF Aerospace France S.A.S., SKF GmbH,[1] and SKF Industrie S.p.A. filed a lawsuit challenging certain aspects of the final results. On December 21, 2009, the CIT concluded that the Department acted within its authority and according to law in requesting cost-of-production (COP) data from SKF Germany's unaffiliated suppliers. *See SKF USA Inc.* v. *United States,* 675 F. Supp. 2d 1264 (CIT 2009). The CIT also upheld the Department's decision to reject the COP information submitted by SKF Germany's unaffiliated supplier as untimely and to resort to facts otherwise available. Specifically, the CIT stated that "the Department has broad authority to set, and extend, its deadlines for submission of requested information, but on the uncontested facts of this case it acted within its authority in deeming the COP data an untimely submission." *Id.* at 1272–74. The CIT held, however, that "{the Department} acted contrary to law in drawing an inference adverse for SKF {Germany} upon the failure of the unaffiliated supplier to make a timely submission of the requested COP data" without a finding that SKF Germany had failed to act to the best of its ability. *Id.* at 1268.

In its remand order, the CIT directed the Department to recalculate SKF Germany's margin after redetermining the value of the subject merchandise SKF Germany obtained from the unaffiliated supplier using information that is not adverse to SKF Germany. *Id.* at 1278. In accordance with the CIT's remand order, the Department filed its redetermination on remand of the final results (remand results) on March 16, 2010, in which the Department recalculated the margin for SKF Germany without use of an adverse inference. On July 7, 2010, the CIT affirmed the Department's remand results. *See SKF USA Inc.* v. *United States,* Slip Op. 10–76 (CIT 2010).

Amended Final Results of the Review

Based on the remand results, the amended weighted-average margin for SKF Germany for the period May 1, 2006, through April 30, 2007, is 1.97 percent.

Assessment of Duties

The Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by these amended final results. The Department intends to issue liquidation instructions to CBP 15 days after publication of these amended final results in the **Federal Register**.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the APO itself. *See* 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these amended final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Tariff Act of 1930, as amended.

Dated: October 6, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–25781 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–DS–P

[1] The CIT refers to the German company as "SKF GmbH" in its decision. The Department refers to the company as "SKF Germany" in its determination and in this notice.

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before November 2, 2010. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 10–061. *Applicant:* Georgia Institute of Technology, 771 Ferst Drive, NW., School of Materials Science and Engineering, Atlanta, GA 30332–0245. *Instrument:* Electron Microscope. *Manufacturer:* FEI

Company, the Netherlands. *Intended Use:* The instrument will be used to examine the crystalline structures of strain-tunable quantum dots, mapping valence states of transition-metal elements, and other experiments. The high-resolution as well as the analytical components of the instrument are necessary to elicit information from core-shell nanoparticles. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* September 22, 2010.

Docket Number: 10–062. *Applicant:* Washington State University, 220 French Administration Building, P.O. Box 641020, Pullman, WA 99164–1020. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument will be used to study materials in the nanometer range such as catalyzer, tissues, and cells. This instrument will be used for high resolution analysis of cell internal structures. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* September 16, 2010.

Docket Number: 10–063. *Applicant:* National Institutes of Health, 50 South Dr., Bldg. 50, Rm. 1517, Bethesda, MD 20892–8025. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Limited, Japan. *Intended Use:* The instrument will be used to study viruses using cryo-electron tomography. Interpretability of the tomograms will be greatly enhanced by extending the resolution using phase-plate technology with this instrument. The instrument is also uniquely capable of single-particle analyses. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* September 22, 2010.

Dated: October 6, 2010.

Gregory W. Campbell,

Acting Director, IA Subsidies Enforcement Office.

[FR Doc. 2010–25775 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814, A–570–898]

Chlorinated Isocyanurates From Spain and the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce ("the Department") and the International Trade Commission ("ITC") that revocation of the antidumping duty orders on chlorinated isocyanurates ("chlorinated isos") from Spain and the People's Republic of China ("PRC") would be likely to lead to continuation or recurrence of dumping and of material injury to an industry in the United States, respectively, the Department is publishing notice of the continuation of these antidumping duty orders.

DATES: *Effective Date:* October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Brandon Petelin, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–8173.

SUPPLEMENTARY INFORMATION: On May 3, 2010, the Department published the notice of initiation of the first sunset reviews of the antidumping duty orders on chlorinated isos from Spain and the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("Act").[1]

The Department conducted an expedited sunset review of these orders.[2] As a result of its review, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and, thus, notified the ITC of the magnitude of the margins likely to prevail if the orders were revoked.[3]

On October 6, 2010, the ITC published its determination, pursuant to section 751(c) of the Act, which stated that revocation of the antidumping duty orders on chlorinated isos from Spain and the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[4]

Scope of the Orders

The products covered by the orders are chlorinated isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) Trichloroisocyanuric acid ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3(2H_2O)$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isos are available in powder, granular, and tableted forms. The orders cover all chlorinated isos. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").[5] The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the orders is dispositive.

Continuation of the Orders

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of these antidumping duty orders on chlorinated isos from Spain and the PRC. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

[1] *See Initiation of Five-Year ("Sunset") Review,* 75 FR 23240 (May 3, 2010); *see also Notice of Antidumping Duty Order: Chlorinated Isocyanurates from the People's Republic of China,* 70 FR 36561 (June 24, 2005) *("PRC Order"); see also Chlorinated Isocyanurates from Spain: Notice of Antidumping Duty Order,* 70 FR 36562 (June 24, 2005) *("Spain Order").*

[2] *See Chlorinated Isocyanurates from Spain and the People's Republic of China: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders,* 75 FR 49464 (August 13, 2010).

[3] *See id.*

[4] *See Chlorinated Isocyanurates From China and Spain; Determinations,* 75 FR 61772 (October 6, 2010).

[5] The *Spain Order* currently covers HTSUS subheadings 2933.69.6015, 2933.69.6021, and 2933.69.6050, while the *PRC Order* currently covers HTSUS subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00.

The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of these orders not later than 30 days prior to the fifth anniversary of the effective date of continuation. These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: October 6, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–25776 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–806]

Silicon Metal From the People's Republic of China; Extension of Time Limit for the Final Results of the 2008–2009 Administrative Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Demitri Kalogeropoulos, or Keith Huffman, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, *telephone:* (202) 482–2623 and (202) 482–4987, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 29, 2009, the Department of Commerce ("Department") initiated the administrative review ("AR") of the antidumping duty order on silicon metal from the People's Republic of China ("PRC") for the period June 1, 2008, through May 31, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review,* 74 FR 37690 (July 29, 2009). On July 15, 2010, the Department published its preliminary results. *See Silicon Metal From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review,* 75 FR 41143 (July 15, 2010). The final results of this AR are currently due no later than November 12, 2010.

Extension of Time Limit for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to issue the final results in an AR within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time period to a maximum of 180 days.

We determine that it is not practicable to complete the final results of this review within the original time limit because the Department requires additional time to analyze significant issues raised in the case briefs and rebuttal briefs. These issues include the calculation of surrogate financial ratios, the valuation of silica fume and coal, and questions regarding comparisons between U.S. prices and normal value. Therefore, given the complexity of issues in this case, we are extending the time limit for completion of the final results by 60 days.

An extension of 60 days from the current deadline of November 12, 2010, would result in a new deadline of January 11, 2011.

This notice is published pursuant to sections 751(a) and 777(i) of the Act.

Dated: October 5, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–25772 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–838]

Carbazole Violet Pigment 23 From India: Final Results of Antidumping Duty Changed-Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has determined, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), that Meghmani Pigments is the successor-in-interest to Alpanil Industries.

DATES: *Effective Date:* October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Jerrold Freeman or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; (202) 482–0180 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 2010, and in accordance with section 751(b) of the Act, 19 CFR 351.216, and 19 CFR 351.221(c)(3), we preliminarily found that Meghmani Pigments is the successor-in-interest to Alpanil Industries. *See Carbazole Violet Pigment 23 From India: Preliminary Results of Antidumping Duty Changed-Circumstances Review,* 75 FR 52930 (August 30, 2010). Although we gave interested parties an opportunity to comment on the preliminary results, we received no comments.

Scope of the Order

The merchandise subject to the order is carbazole violet pigment 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of diindolo [3,2–b:3′,2′-m] [1] triphenodioxazine, 8,18-dichloro-5, 15-diethyl-5, 15-dihydro-, and molecular formula of $C_{34}H_{22}Cl_2N_4O_2$. The subject merchandise includes the crude pigment in any form (*e.g.,* dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.,* pigment dispersed in oleoresins, flammable solvents, water) are not included within the scope of the order. The merchandise subject to the order is classifiable under subheading 3204.17.90.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Final Results of Changed-Circumstances Review

For the reasons stated in the preliminary results, we continue to find that Meghmani Pigments is the successor-in-interest to Alpanil Industries and, as a result, should be accorded the same antidumping duty treatment as Alpanil Industries. Accordingly, effective on the date of publication of these final results in the **Federal Register**, we will instruct U.S. Customs and Border Protection to collect cash deposits for estimated

[1] The bracketed section of the product description, [3,2–b:3′,2′-m], is not business-proprietary information. In this case, the brackets are simply part of the chemical nomenclature.

antidumping duties of 58.90 percent, the weighted-average percentage dumping margin we found for Alpanil Industries in the most recently completed review. *See Carbazole Violet Pigment 23 From India: Final Results of Antidumping Duty Administrative Review,* 75 FR 38076 (July 1, 2010).

Notification

This notice serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 19 CFR 351.221.

Dated: October 6, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–25777 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–908]

First Antidumping Duty Administrative Review of Sodium Hexametaphosphate From the People's Republic of China: Extension of Time Limit for the Final Results

AGENCY: Import Administration, International Trade Administration, Department of Commerce

DATES: *Effective Date:* October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0413.

Background

On April 15, 2010 the Department of Commerce ("Department") published the *Preliminary Results* of the first administrative review of sodium hexametaphosphate From the People's Republic of China ("PRC"), covering the period September 14, 2007 through February 28, 2009. *See First Administrative Review of Sodium Hexametaphosphate From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review,* 75 FR 19613 (April 15, 2010) ("*Preliminary Results*"). On August 10, 2010 the Department extended the final results of review to October 5, 2010. *See First Antidumping Duty Administrative Review of Sodium Hexametaphosphate From the People's Republic of China: Extension of Time Limit for the Final Results,* 75 FR 48309 (August 10, 2010).

Extension of Time Limit for the Preliminary Results

As noted in the August 10 extension notice, section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to issue the final results of an administrative review within 120 days after the date on which the *Preliminary Results* have been published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend this deadline to a maximum of 180 days.

The Department determines that completion of the final results of this review by the current deadline is not practicable. The Department requires more time to analyze a significant amount of information pertaining to the respondent's corporate structure and ownership, sales practices and manufacturing methods. Therefore, given the number and complexity of issues in this case, and in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the final results of review until October 12, 2010.

This notice is published pursuant to sections 751(1)(3)(A) and 777(i)(1) of the Act and 19 CFR 351.213(h)(2).

Dated: October 5, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–25770 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–2010–0079]

Grant of Interim Extension of the Term of U.S. Patent No. 5,407,914; SURFAXIN® (Lucinactant)

AGENCY: United States Patent and Trademark Office.

ACTION: Notice of Interim Patent Term Extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting interim extension under 35 U.S.C. 156(d)(5) for a second one-year interim extension of the term of U.S. Patent No. 5,407,914.

FOR FURTHER INFORMATION CONTACT: Mary C. Till by telephone at (571) 272–7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7755, or by e-mail to *Mary.Till@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On September 22, 2010, Discovery Laboratories Inc., on behalf of patent owner Scripps Research Institute, timely filed an application under 35 U.S.C. 156(d)(5) for an additional interim extension of the term of U.S. Patent No. 5,407,914. The patent claims the human drug product, SURFAXIN® (lucinactant) and a method of using SURFAXIN® (lucinactant). The application indicates that a New Drug Application, NDA No. 21–746, for the human drug product SURFAXIN® (lucinactant) has been filed, and is currently undergoing regulatory review before the Food and Drug Administration for permission to market or use the product commercially.

Review of the application indicates that except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for an additional one year as required by 35 U.S.C. 156(d)(5)(B). Because it is apparent that the regulatory review period will continue beyond the extended expiration date of the patent, November 17, 2010, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 5,407,914 is granted for a period of one additional year from the extended expiration date of the patent, *i.e.,* until November 17, 2011.

Dated: October 7, 2010.

Robert W. Bahr,

Acting Associate Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

[FR Doc. 2010–25768 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–PTO–P–2010–0081]

Grant of Interim Extension of the Term of U.S. Patent No. 4,919,140; Andara™ OFS™ System

AGENCY: United States Patent and Trademark Office.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting interim extension under 35 U.S.C. 156(d)(5) for a third one-year interim extension of the term of U.S. Patent No. 4,919,140.

FOR FURTHER INFORMATION CONTACT: Mary C. Till by telephone at (571) 272–7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7755, or by e-mail to *Mary.Till@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On September 13, 2010, the patent owner, Purdue Research Foundation, timely filed an application under 35 U.S.C. 156(d)(5) for a third interim extension of the term of U.S. Patent No. 4,919,140. The patent claims the medical device Andara™ OFS™ System and a method of using the Andara™ OFS™ System. The application indicates that a Humanitarian Device Exemption, HDE 070002, for the medical device Andara™ OFS™ System has been filed and is currently undergoing regulatory review before the Food and Drug Administration for permission to market or use the product commercially.

Review of the application indicates that except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for an additional one year as required by 35 U.S.C. 156(d)(5)(B). Because it is apparent that the regulatory review period will continue beyond the extended expiration date of the patent (October 14, 2010), interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

A third interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 4,919,140 is granted for a period of one year from the extended expiration date of the patent, *i.e.,* until October 14, 2011.

Dated: October 7, 2010.

Robert W. Bahr,

Acting Associate Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

[FR Doc. 2010–25767 Filed 10–12–10; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 10–53, 10–54, 10–55, 10–59, 10–60, 10–61, and 10–63]

36(b)(1) Arms Sales Notifications

AGENCY: Defense Security Cooperation Agency, DoD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of seven section 36(b)(1) arms sales notifications to fulfill the requirements of section 155 of Public Law 104–164, dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

SUPPLEMENTARY INFORMATION: The following are copies of letters to the Speaker of the House of Representatives, Transmittals 10–53, 10–54, 10–55, 10–59, 10–60, 10–61, and 10–63 with associated attachments.

Dated: October 6, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 10–53

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–53 with attached transmittal and policy justification.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

OCT 04 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 10-53, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Singapore for defense articles and services estimated to cost $150 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification

Transmittal No. 10-53

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended (U)

(i) Prospective Purchaser: Singapore

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$ 150 million
TOTAL	$ 150 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: defined order training for a three-year pilot training program that specifies the number and type of pilot training slots with an option to extend at the Tucson Air National Guard Base in Arizona. Training includes F-16 Basic, Transition, Conversion/International Advanced Weapons, and Instructor Pilot Upgrade courses. Also included are related program requirements necessary to sustain a long-term CONUS training program.

(iv) Military Department: Air Force (TGV)

(v) Prior Related Cases, if any: FMS case TGT-$18M-11Jun09

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None

(viii) Date Report Delivered to Congress: 4 October 2010

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Singapore – F-16 Pilot Training

The Government of Singapore has requested a possible sale of defined order training for a three-year pilot training program that specifies the number and type of pilot training slots with an option to extend at the Tucson Air National Guard Base in Arizona. Training includes F-16 Basic, Transition, Conversion/International Advanced Weapons, and Instructor Pilot Upgrade courses. Also included are related program requirements necessary to sustain a long-term CONUS training program. The estimated cost is $150 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been, and continues to be, an important force for economic progress in Southeast Asia. This proposed sale will augment the Republic of Singapore's self-defense capability and ensure interoperability with U.S. forces for coalition operations.

Singapore needs this training to develop mission-ready and experienced pilots to support its current and future F-16 aircraft inventory. The well-established pilot proficiency training program at Tucson ANGB will continue professional interaction and enhance operational interoperability with U.S. forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

There is no prime contractor involved in this proposed sale. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government and contractor representatives to Singapore.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10–54

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–54 with attached transmittal, policy justification, and sensitivity of technology.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

SEP 29 2010

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 10-54, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Thailand for defense articles and services estimated to cost $700 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 10-54

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Thailand

(ii) Total Estimated Value:

Major Defense Equipment*	$240 million
Other	$460 million
TOTAL	$700 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: three-phased program to upgrade 18 F-16A/B Block 15 aircraft with the Mid-Life Upgrade (MLU). Each phase will upgrade six aircraft over a three-year period, with each phase overlapping by one year. The MLU with Modular Mission Computer includes APG-68(V)9 Radar, APX-113 Combined Interrogator and Transponder, ALQ-213 Electronic Warfare Management System, ALE-47 Countermeasures Dispenser System, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, U.S. Government and contractor engineering and technical support services, and other related elements of logistics support.

(iv) Military Department: Air Force (QCZ)

(v) Prior Related Cases, if any:
FMS case SKA-$311M-26Jun85
FMS case SMG-$569M-28Jan92

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: 29 September 2010

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Thailand – F-16 Mid-Life Upgrade

The Government of Thailand has requested a possible sale of a three-phased program to upgrade 18 F-16A/B Block 15 aircraft with the Mid-Life Upgrade (MLU). Each phase will upgrade six aircraft over a three-year period, with each phase overlapping by one year. The MLU with Modular Mission Computer includes APG-68(V)9 Radar, APX-113 Combined Interrogator and Transponder, ALQ-213 Electronic Warfare Management System, ALE-47 Countermeasures Dispenser System, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, U.S. Government and contractor engineering and technical support services, and other related elements of logistics support. The estimated cost is $700 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a major non-NATO ally.

Thailand needs this MLU program in order to upgrade its aging F-16 fleet and to increase air sovereignty fighter aircraft effectiveness and interoperability with U.S. forces. The proposed sale will enhance the Royal Thailand Air Force's capability to conduct day, night, and adverse weather air defense operations. Thailand, which already has F-16s in its inventory, will have no difficulty absorbing these upgrades into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Lockheed Martin Aeronautics Company in Fort Worth, Texas. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Thailand.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10-54

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The Modular Mission Computer (MMC) operational flight program (OFP) software is compatible with LITENING/Sniper Targeting Pods, ALQ-131 Block II Electronic Warfare Pods, AIM-120 Advanced Medium Range Air to Air Missiles, and AIM-9L/M and AGM-84 Block I/II missiles. Access to full functionality is restricted pending additional disclosure approval or the purchase of authorized equipment. The highest classification level of the MMC OFP is Secret.

2. The AGP-68(V)9 radar with High Resolution Synthetic Aperture Radar (SAR) provides a 33 percent increase in acquisition range over previous versions and a two-foot point target response resolution. This radar possesses faster processors and increases bandwidth to 400 MHZ, which are needed to support the SAR capability and improve radar ground map images. SAR imaging improves accuracy, precludes target misidentification and fratricide. The baseline AN/AGP-68(V)9 includes the following air-to-air and air-to-surface Electronic Counter-Countermeasures capabilities: continuous noise jammer detection, noise detection and track during air-to-air search, continuous noise jammer track angle on jam, repeater swept amplitude modulation, multiple false Doppler target detection and track, target track extrapolation off, range gate pull off, velocity gate pull off, angle on ranging, gate stealer false Doppler targets, narrow band repeater noise detection and track, narrow band frequency agility, wide band frequency agility, and real beam edit of noise jammers. The highest classification level is Secret.

3. The ALQ-213 Electronic Warfare Management System provides a common

4. The ALE-47 Countermeasures Dispenser System is a software-reprogrammable system to dispense expendables/decoys to enhance aircraft survivability. It provides for automatic dispensal via an integrated missile warning system input, or aircrew-commanded response dispense capabilities. The export version of the system, which uses a country-unique "look-up decision tree" for determining dispense routines, is being offered. The highest classification of this export variant is Confidential.

5. If a technologically advanced adversary were to obtain knowledge of the specific hardware or software in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

Transmittal No. 10–55

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–55 with attached transmittal, policy justification, and sensitivity of technology.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

OCT 04 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 10-55, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost $169 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 10-55

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Australia

(ii) Total Estimated Value:

Major Defense Equipment*	$ 125 million
Other	$ 44 million
TOTAL	$ 169 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: up to 200 MK 54 All-Up-Round Torpedoes, 179 MK 54 Flight in Air Material Kits, 10 MK 54 Exercise Sections, 10 MK 54 Exercise Fuel Tanks, 10 MK 54 Dummy Torpedoes, 6 MK 54 Ground Handling Torpedoes, support and test equipment to upgrade Intermediate Maintenance Activity to MK 54 capability, spare and repair parts, technical data and publications, personnel training and training equipment, U.S. government and contractor engineering, technical and logistics support services, and other related elements of logistics support.

(iv) Military Department: Navy (AHV)

(v) Prior Related Cases, if any: None

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: 4 October 2010

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia – MK 54 Lightweight Torpedoes

The Government of Australia has requested a possible sale of up to 200 MK 54 All-Up-Round Torpedoes, 179 MK 54 Flight in Air Material Kits, 10 MK 54 Exercise Sections, 10 MK 54 Exercise Fuel Tanks, 10 MK 54 Dummy Torpedoes, 6 MK 54 Ground Handling Torpedoes, support and test equipment to upgrade Intermediate Maintenance Activity to MK 54 capability, spare and repair parts, technical data and publications, personnel training and training equipment, U.S. government and contractor engineering, technical and logistics support services, and other related elements of logistics support. The estimated cost is $169 million.

Australia, one of our most important allies in the Western Pacific, contributes significantly to ensuring peace and economic stability in the region. Australia's efforts in peacekeeping and humanitarian operations in Iraq and in Afghanistan have served U.S. national security interests.

Australia intends to use the MK 54 torpedo on the Lockheed/Sikorsky MH-60R helicopter. Australia has significant experience with modern weapons systems, particularly the MK 46 Mod 5 (SW) torpedo. The MK 54 torpedo is an upgrade of the MK 46 torpedo.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Raytheon Integrated Defense Systems in Tewksbury, Massachusetts. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of U.S. Government or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10-55

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The MK 54 is a conventional torpedo that can be launched from surface ships, helicopters, and fixed wing aircraft. The MK 54 is an upgrade of the MK 46 torpedo, which is currently in-service in Australia. The upgrade to MK 54 entails replacement of the torpedo's sonar and guidance and control systems with updated technology using a mixture of commercial off-the-shelf and custom-built electronics. The warhead, fuel tank, and propulsion system from the MK 46 torpedo are reconfigured for use in the MK 54. The MK 54 is highly effective against modern diesel and nuclear submarines, but does not currently have the capability to attack surface ships. The MK 54 uses advanced logic to detect and prosecute threat submarines operating in challenging littoral environments and is effective in the presence of advanced acoustic countermeasures.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

Transmittal No. 10–59

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–59 with attached transmittal, policy justification, and sensitivity of technology.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

SEP 29 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 10-59, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Finland for defense articles and services estimated to cost $100 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 10-59

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Finland

(ii) Total Estimated Value:

Major Defense Equipment*	$ 20 million
Other	$ 80 million
TOTAL	$ 100 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: for the upgrade of (24) M270 Multiple Launch Rocket Systems (MLRS) to the Universal Fire Control System configuration, (1) M31 Guided Multiple Launch Rocket System Unitary, (1) Army Tactical Missile System T2K, (36) Ruggedized Memory Units, (25) Interface devices, (8) M68 to M68A2 trainers, tools, support and test equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) Military Department: Army (VAF)

(v) Prior Related Cases, if any: None

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None

(viii) Date Report Delivered to Congress: 29 September 2010

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Finland – M270 Multiple Launch Rocket System Upgrade

The Government of Finland has requested the sale for the upgrade of (24) M270 Multiple Launch Rocket Systems (MLRS) to the Universal Fire Control System configuration, (1) M31 Guided Multiple Launch Rocket System Unitary, (1) Army Tactical Missile System T2K, (36) Ruggedized Memory Units, (25) Interface devices, (8) M68 to M68A2 trainers, tools, support and test equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $100 million.

The proposed sale will contribute to the foreign policy and national security of the United States by improving the security of a friendly nation that has been, and continues to be, an important force for political stability and economic progress in Europe.

Finland will use this equipment to modernize its armed forces by expanding its existing architecture to counter threats from potential attacks. This will contribute to the Finnish military's goal to update its capability while further enhancing interoperability among Finland, the U.S., and other allies. Finland, which already has M270 MLRS in its inventory, will have no difficulty absorbing these upgraded systems.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Lockheed Martin Industries in Camden, Arkansas. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require approximately ten U.S. Government or contractor representatives to travel to Finland for a period of up to one year for equipment de-processing/fielding, system checkout and training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10-59

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. One Army Tactical Missile System (ATACMS) T2K Unitary Missile is being provided in this sale for the purpose of testing. The ATACMS T2K is a ground-launched surface-to-surface guided missile fired from the M270A1 Multiple Launch Rocket System and the High Mobility Artillery Rocket System launchers. The highest classification level for release of the ATACMS T2K Unitary Missile is Secret. The highest level of classified information that could be disclosed by a sale or by testing of the end item is Secret. The Fire Direction System, Data Processing Unit, and special application software are Secret. The highest level that must be disclosed for production, maintenance, or training is Confidential. The Communications Distribution Unit software is Confidential. The system specifications and limitations are classified Confidential. The vulnerability data, countermeasures, vulnerability/susceptibility analyses, and threat definitions are classified up to Secret.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or could be used in the development of a system with similar or advanced capabilities.

Transmittal No. 10–60

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–60 with attached transmittal and policy justification.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

SEP 29 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 10-60, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Spain for defense articles and services estimated to cost $155 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification

Transmittal No. 10-60

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Spain

(ii) Total Estimated Value:

Major Defense Equipment*	$ 47 million
Other	$ 108 million
TOTAL	$ 155 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: sale and refurbishment of (6) SH-60F Multi-Mission Utility Helicopters being offered as Excess Defense Articles, (13) T700-GE-401C engines (12 installed and 1 spare), inspection and modifications, spare and repairs parts, support equipment, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor engineering, technical, and logistics support services, and other related logistics and program support.

(iv) Military Department: Navy (SCX)

(v) Prior Related Cases, if any: FMS case SCR-$219M-29Jan99

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None

(viii) Date Report Delivered to Congress: 29 September 2010

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Spain – Refurbishment of SH-60F Multi-Mission Utility Helicopters

The Government of Spain has requested a possible sale and the refurbishment of (6) SH-60F Multi-Mission Utility Helicopters being offered as Excess Defense Articles, (13) T700-GE-401C engines (12 installed and 1 spare), inspection and modifications, spare and repairs parts, support equipment, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor engineering, technical, and logistics support services, and other related logistics and program support. The estimated cost is $155 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a NATO ally that has been and continues to be an important force for economic and military progress.

The proposed sale and refurbishment of the SH-60s will modernize the Spanish Navy's overwater search and rescue capability and enable continued interoperability with U.S. Armed Forces and other coalition partners in the region. The proposed sale will improve Spain's overall ability to perform humanitarian missions, search and rescue, medical evacuations, fire-fighting, and anti-piracy efforts. Spain, which currently has 12 SH-60s in its inventory, will have no difficulty absorbing these additional helicopters into its armed forces.

The proposed sale of these aircraft will not alter the basic military balance in the region.

The prime contractor for the engines will be General Electric in Lynn, Massachusetts. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of two contractor representatives to Spain for familiarization training for a period of two years. U.S. Government and contractor representatives will also be required to participate in program management and technical reviews, training, and maintenance support for one week intervals, semi-annually, for a period of three years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10–61

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–61 with attached transmittal, policy justification, and sensitivity of technology.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

SEP 29 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 10-61, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Federal Republic of Germany for defense articles and services estimated to cost $146 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 10-61

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Federal Republic of Germany

(ii) Total Estimated Value:

Major Defense Equipment*	$ 28 million
Other	$118 million
TOTAL	$146 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Sale and installation of AN/AAQ 24(V) Large Aircraft Infrared Countermeasures Systems on 2 German Airbus A-319 and 4 German Bombardier Global 5000 aircraft, including the following Line Replaceable Units: 5 Control Interface Units, 4 System Processors, 32 AAR-54 Missile Warning Systems, 8 Small Laser Transmitter Assemblies, and Operation Flight Program software, installation support, engineering change proposals, minor modifications, support equipment, spare and repair parts, publications and technical documents, repair and return, depot maintenance, training and training equipment, U.S. Government and contractor technical assistance, and other related elements of logistics and program support.

(iv) Military Department: Air Force (QXZ)

(v) Prior Related Cases, if any: FMS Case QAX - $84M – 25 Apr 09

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See attached annex

(viii) Date Report Delivered to Congress: 29 September 2010

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Germany – AN/AAQ 24(V) Large Aircraft Infrared Countermeasures (LAIRCM) Systems

The Government of the Republic of Germany has requested a possible sale and installation of AN/AAQ 24(V) Large Aircraft Infrared Countermeasures Systems (LAIRCM) on 2 German Airbus A-319 and 4 German Bombardier Global 5000 aircraft, including the following Line Replaceable Units: 5 Control Interface Units, 4 System Processors, 32 AAR-54 Missile Warning Systems, 8 Small Laser Transmitter Assemblies, and Operation Flight Program software, installation support, engineering change proposals, minor modifications, support equipment, spare and repair parts, publications and technical documents, repair and return, depot maintenance, training and training equipment, U.S. Government and contractor technical assistance, and other related elements of logistics and program support. The estimated cost is $146 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a major NATO ally which has been, and continues to be, an important force for political and economic stability in Europe .

Germany needs this capability to provide protection for its head-of-state aircraft fleet. LAIRCM will ensure the safety of German political leadership, promoting stability and global engagement of a close and trusted ally. German head-of-state use of this advanced US system will demonstrate mutual trust and confidence, bolstering US-German relations. Germany, which currently has LAIRCM in its inventory, will have no difficulty absorbing this advanced system into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be the Northrop Grumman Corporation in Rolling Meadows, Illinois. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Germany.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10-61

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The AN/AAQ 24(V) Large Aircraft Infrared Countermeasures (LAIRCM) system is designed to protect aircraft from infrared-guided surface-to-air missiles. The system features digital technology and micro-miniature solid-state electronics. The system operates in all conditions, detecting incoming missiles and jamming infrared-seeker equipped missiles with aimed bursts of laser energy. The LAIRCM system consists of multiple Optical Sensor Converter (OSC) units, Small Laser Turret Assembly (SLTA), Computer Processor (CP), Control Indicator (CI), and a classified User Data Memory (UDM) card containing laser jam codes. The UDM card is loaded into the CP prior to flight. When not in use, the UDM card is removed from the CP and put in secure storage. The set of OSC units (AAR-54) are mounted on the aircraft exterior to provide omni-directional protection. The OSC detects the missile launch and sends appropriate data signals to the CP for processing. The CP analyzes the data from each OSC and automatically deploys the appropriate countermeasure via the SLTA. The CI displays the incoming threat for the pilot to take appropriate action. The software is classified Secret. The hardware, technical data documentation, training devices, and services to be provided are Unclassified.

2. The AN/AAR-54 is a small, lightweight, passive electro-optic, threat warning device used to detect surface-to-air missiles fired at helicopters and low flying fixed-wing aircraft and automatically provide countermeasures, as well as audio and visual warning messages to the aircrew. The basic system consists of multiple OSC units, a CP, and a CI. The set of OSC units are mounted on the aircraft exterior to provide omni-directional protection. The OSC detects the rocket plume of missiles and sends appropriate data signals to the CP for processing. The CP analyzes the data from each OSC and automatically deploys the appropriate countermeasures. The CP also contains comprehensive BIT circuitry. The CI displays the incoming threat, so that the pilot can take appropriate action. The software is classified Secret. The hardware, technical data, and documentation to be provided are Unclassified.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

Transmittal No. 10–63

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–63 with attached transmittal, policy justification, and sensitivity of technology.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

SEP 29 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 10-63, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Sweden for defense articles and services estimated to cost $546 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 10-63

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Sweden

(ii) Total Estimated Value:

Major Defense Equipment*	$437 million
Other	$109 million
TOTAL	$546 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: 15 UH-60M BLACKHAWK Helicopters, 34 T700-GE-701D General Electric Engines (30 installed and 4 spares), 15 AN/AAR-57(V)3 Common Missile Warning Systems, AN/APR-39 Radar Signal Detecting Sets, AN/AVR-2B Laser Warning Sets, Aviation Mission Planning Station, transportable operations simulator, communications equipment, spare and repair parts, tools and support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, logistics, and technical support services, and other related elements of logistics support.

(iv) Military Department: Army (WAD)

(v) Prior Related Cases, if any: None

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex

(viii) Date Report Delivered to Congress: 29 September 2010

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Sweden– UH-60M BLACKHAWK Helicopters

The Government of Sweden has requested a possible sale of 15 UH-60M BLACKHAWK Helicopters, 34 T700-GE-701D General Electric Engines (30 installed and 4 spares), 15 AN/AAR-57(V)3 Common Missile Warning Systems, AN/APR-39 Radar Signal Detecting Sets, AN/AVR-2B Laser Warning Sets, Aviation Mission Planning Station, transportable operations simulator, communications equipment, spare and repair parts, tools and support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, logistics, and technical support services, and other related elements of logistics support. The estimated cost is $546M.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country, which has been, and continues to be an important force for political stability and economic progress in Europe. Swedish forces are currently deployed in support of coalition efforts in Afghanistan. This sale will enable the Swedish Forces to address an urgent shortfall in Combat Search and Rescue and Medical Evacuation transport capability while in the area of operations.

Sweden's acquisition of these helicopters is consistent with recently adopted defense and modernization priorities focused on both international threats to Swedish security as well as regional threats to Swedish sovereignty. This proposed sale will contribute to Sweden's need to expand its existing army architecture to rapidly deploy forces to counter territorial threats, or in support of coalition efforts in Afghanistan. The purchase of UH-60M BLACKHAWK Helicopters will contribute to Sweden's goal to update its capability while enhancing interoperability between Sweden, the U.S., and other allies.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractors will be Sikorsky Aircraft Corporation in Stratford, Connecticut; and General Electric Aircraft Company in Lynn, Massachusetts. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of at least two contractor representatives to Sweden for a period of two years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10-63

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The UH-60M BLACKHAWK is a twin-engine rotary wing aircraft designed to carry 11 combat equipped troops and a crew of four. The weapon system contains communications and identification equipment, navigation equipment, aircraft survivability equipment (ASE), displays, and sensors. The airframe itself does not contain sensitive technology. The highest level of classified information required to be released for training, and operation and maintenance of the BLACKHAWK is Unclassified.

2. The AN/AAR-57(V)3 Common Missile Warning System (CMWS) detects energy emitted by threat missiles in-flight, evaluates potential false alarms, declares validity of threats, and selects appropriate counter-measures. The hardware is Unclassified and releasable technical manuals for operation and maintenance are classified Secret.

3. The AN/APR-39 Radar Signal Detecting Set is a system, that provides warning of a radar directed air defense threat and allows for appropriate countermeasures. The hardware is classified Confidential when programmed with U.S. threat data; releasable technical manuals for operation and maintenance are classified Confidential; releasable technical data (technical performance) is classified Secret.

4. The AN/AVR-2B Laser Warning Set is a passive laser warning system that receives, processes, and displays threat information resulting from aircraft illumination by lasers on the multi-functional display. The hardware is classified Confidential; and releasable technical manuals for operation and maintenance are classified Secret.

5. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2010–25566 Filed 10–12–10; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 10–20, 10–23, and 10–42]

36(b)(1) Arms Sales Notifications

AGENCY: Defense Security Cooperation Agency, DoD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of three section 36(b)(1) arms sales notifications to fulfill the requirements of section 155 of Public Law 104–164, dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

SUPPLEMENTARY INFORMATION: The following are copies of letters to the Speaker of the House of Representatives, Transmittals 10–20, 10–23, and 10–42 with associated attachments.

Dated: October 6, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 10–20

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–20 with attached transmittal and policy justification.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

SEP 1 3 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 10-20 concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Saudi Arabia for defense articles and services estimated to cost $350 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 10-20

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Kingdom of Saudi Arabia

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$350 million
TOTAL	$350 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: continuation of a blanket order training program inside and outside the Kingdom of Saudi Arabia that includes, but is not limited to, flight training, technical training, professional military education, specialized training, mobile training teams, and English Language training. Also provided are site surveys, trainers, simulators, program management, publications and technical documentation, personnel training and training equipment, U.S. government and contractor technical and logistical support services, and other related program requirements necessary to sustain a long-term training program.

(iv) Military Department: Air Force (TGP, Amd #10 and THE, Amd #3)

(v) Prior Related Cases, if any:
FMS Case TGP (Amd 1-9)-$49 million- 28Sep01
FMS Case THE (Amd 1-2)-$49 million-8Mar08

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None

(viii) Date Report Delivered to Congress: SEP 13 2010

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kingdom of Saudi Arabia – Blanket Order Training Program

The Government of Saudi Arabia has requested a possible sale for the continuation of a blanket order training program inside and outside the Kingdom of Saudi Arabia that includes, but is not limited to, flight training, technical training, professional military education, specialized training, mobile training teams, and English Language training. Also provided are site surveys, trainers, simulators, program management, publications and technical documentation, personnel training and training equipment, U.S. government and contractor technical and logistical support services, and other related program requirements necessary to sustain a long-term CONUS training program. The estimated cost is $350 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Saudi Arabia intends to use the training to enhance its security posture and maintain its operational readiness. This will allow the Royal Saudi Air Force to develop and enhance standardization and operational capability, and interoperability with the USAF, Gulf Cooperation Council, and other coalition air forces. Saudi Arabia will have no difficulty absorbing these services into its armed forces.

The proposed sale of this service will not alter the basic military balance in the region.

There is no prime contractor involved in this program. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale will not require the assignment of any U.S. Government or contractor representatives to recipient.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10–23

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–23 with attached transmittal, policy justification, and sensitivity of technology.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

SEP 13 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 10-23, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $4.2 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 10-23

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Iraq

(ii) Total Estimated Value:

Major Defense Equipment*	$3.2 billion
Other	$1.0 billion
TOTAL	$4.2 billion

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: (18) F-16IQ aircraft, (24) F100-PW-229 or F110-GE-129 Increased Performance Engines, (36) LAU-129/A Common Rail Launchers, (24) APG-68(V)9 radar sets, (19) M61 20mm Vulcan Cannons, (200) AIM-9L/M-8/9 SIDEWINDER Missiles, (150) AIM-7M-F1/H SPARROW Missiles, (50) AGM-65D/G/H/K MAVERICK Air to Ground Missiles, (200) GBU-12 PAVEWAY II Laser Guided Bomb Units (500 pound), (50) GBU-10 PAVEWAY II Laser Guided Bomb Units (2000 pound), (50) GBU-24 PAVEWAY III Laser Guided Bomb Units (2000 pound), (22) Advanced Countermeasures Electronic Systems (ACES) (ACES includes the ALQ-187 Electronic Warfare System and AN/ALR-93 Radar Warning Receiver), (20) AN/APX-113 Advanced Identification Friend or Foe (AIFF) Systems (without Mode IV), (20) Global Positioning Systems (GPS) and Embedded GPS/ Inertial Navigation Systems (INS), (Standard Positioning Service (SPS) commercial code only), (20) AN/AAQ-33 SNIPER or AN/AAQ-28 LITENING Targeting Pods, (4) F-9120 Advanced Airborne Reconnaissance Systems (AARS) or DB-110 Reconnaissance Pods (RECCE), (22) AN/ALE-47 Countermeasures Dispensing Systems (CMDS), (20) Conformal Fuel Tanks (pairs)

* as defined in Section 47(6) of the Arms Export Control Act.

Also included: site survey support equipment, tanker support, ferry services, Cartridge Actuated Devices/Propellant Actuated Devices (CAD/PAD), repair and return, modification kits, spares and repair parts, construction, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical, engineering, and logistics support services, ground based flight simulator, and other related elements of logistics support.

(iv) Military Department: Air Force (SAE)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: SEP 13 2010

POLICY JUSTIFICATION

Iraq –F-16 Aircraft

The Government of Iraq has requested a possible sale of (18) F-16IQ aircraft, (24) F100-PW-229 or F110-GE-129 Increased Performance Engines, (36) LAU-129/A Common Rail Launchers, (24) APG-68(V)9 radar sets, (19) M61 20mm Vulcan Cannons, (200) AIM-9L/M-8/9 SIDEWINDER Missiles, (150) AIM-7M-F1/H SPARROW Missiles, (50) AGM-65D/G/H/K MAVERICK Air to Ground Missiles, (200) GBU-12 PAVEWAY II Laser Guided Bomb Units (500 pound), (50) GBU-10 PAVEWAY II Laser Guided Bomb Units (2000 pound), (50) GBU-24 PAVEWAY III Laser Guided Bomb Units (2000 pound), (22) Advanced Countermeasures Electronic Systems (ACES) (ACES includes the ALQ-187 Electronic Warfare System and AN/ALR-93 Radar Warning Receiver), (20) AN/APX-113 Advanced Identification Friend or Foe (AIFF) Systems (without Mode IV), (20) Global Positioning Systems (GPS) and Embedded GPS/Inertial Navigation Systems (INS), (Standard Positioning Service (SPS) commercial code only), (20) AN/AAQ-33 SNIPER or AN/AAQ-28 LITENING Targeting Pods, (4) F-9120 Advanced Airborne Reconnaissance Systems (AARS) or DB-110 Reconnaissance Pods (RECCE), (22) AN/ALE-47 Countermeasures Dispensing Systems (CMDS); (20) Conformal Fuel Tanks (pairs). Also included: site survey, support equipment, tanker support, ferry services, Cartridge Actuated Devices/Propellant Actuated Devices (CAD/PAD), repair and return, modification kits, spares and repair parts, construction, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical, engineering, and logistics support services, ground based flight simulator, and other related elements of logistics support. The estimated cost is $4.2 billion.

The proposed sale will contribute to the foreign policy and national security objectives of the United States by enhancing the capability of Iraq. The proposed aircraft and accompanying weapon systems will greatly enhance Iraq's interoperability with the U.S. and other NATO nations, making it a more valuable partner in an important area of the world, as well as supporting Iraq's legitimate need for its own self-defense.

The proposed sale will allow the Iraqi Air Force to modernize its air force by acquiring western interoperable fighter aircraft, thereby enabling Iraq to support both its own air defense needs and coalition operations. The country will have no difficulty absorbing this new capability into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be:

BAE Advanced Systems	Greenlawn, New York
Boeing Corporation	Seattle, Washington
Boeing Integrated Defense Systems	St Louis, Missouri
(three locations)	Long Beach, California
	San Diego, California
Raytheon Company	Lexington, Massachusetts
(two locations)	Goleta, California
Raytheon Missile Systems	Tucson, Arizona
Lockheed Martin Aeronautics Company	Fort Worth, Texas
Lockheed Martin Missile and Fire Control	Dallas, Texas
Lockheed Martin Simulation, Training And Support	Fort Worth, Texas
Northrop-Grumman Electro-Optical Systems	Garland, Texas
Northrop-Grumman Electronic Systems	Baltimore, Maryland
Pratt & Whitney United Technology Company	East Hartford, Connecticut
General Electric Aircraft Engines	Cincinnati, Ohio
Goodrich ISR Systems	Danbury, Connecticut
L3 Communications	Arlington, Texas
ITT Defense Electronics and Services	McLean, Virginia
Symetrics Industries	Melbourne, Florida

There are no known offset agreements in connection with this proposed sale.

Implementation of this proposed sale will require multiple trips to Iraq involving U.S. Government and contractor representatives for technical reviews/support, program management, and training over a period of 15 years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10-23

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. This sale will involve the release of sensitive technology to Iraq. The F-16IQ is Unclassified, except as noted below. The aircraft utilizes the F-16 airframe and features advanced avionics and systems. It contains the Pratt and Whitney F-100-PW-229 or the General Electric F-110-GE-129 engine, AN/APG-68(V)9 radar, digital flight control systems, internal electronic warfare equipment, Advanced IFF (without Mode IV), operational flight program, and software computer programs.

2. Sensitive and/or classified (up to Secret) elements of the F-16IQ aircraft proposed for sale include hardware, accessories, components, and associated software: AN/APG-68(V)9 Radar, AN/APX-113 Advanced Identification Friend or Foe (AIFF) without Mode IV capability, AN/ALE-47 Countermeasures (Chaff and Flare) set, SNIPER and/or LITENING Targeting Pods, F-9120 Advanced Airborne Reconnaissance Systems (AARS) and/or DB-110 RECCE Pods, Embedded Global Positioning System/Inertial Navigation System with Standard Positioning Service (SPS) commercial code only, Advanced Countermeasures Electronic System (ACES), Advanced Interference Blanker Unit, Modular Mission Computer, Have Glass I Digital Flight Control System, and F-100 or F-110 engines. Additional sensitive areas include operating manuals and maintenance technical orders containing performance information, operating and test procedures, and other information related to support operations and repair. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters, and other similar critical information.

3. The AN/APG-68(V)9 radar is the latest model of the APG-68 radar and was specifically designed for foreign military sales. This model contains the latest digital technology available for a mechanically scanned antenna, including higher processor power, higher transmission power, more sensitive receiver electronics, and a new capability, Synthetic Aperture Radar (SAR), which creates higher-resolution ground maps from a much greater distance than previous versions of the APG-68. The upgrade features a 30% increase in detection range of air targets, a five-fold increase in processing speed, a ten-fold increase in memory, as well as significant improvements in all modes, jam resistance and false alarm rates. Complete hardware is classified Confidential; major components and subsystems are

classified Confidential; software is classified Secret; and the technical data and documentation are classified up to Secret.

4. The AN/AAQ-33 SNIPER Targeting System is Unclassified but contains state-of-the-art technology. Information on performance and inherent vulnerabilities is classified Secret. The software (object code) is classified Confidential. Sensitive elements include the Forward Looking Infrared (FLIR) sensors, and the AGM-65 Missile Boresight Correlator.

5. The AN/AAQ-28 LITENING Targeting System hardware is Unclassified but contains state-of-the-art technology. Information on performance and inherent vulnerabilities is classified Secret. The software (object code) is classified Confidential. Sensitive elements include the Forward Looking Infrared (FLIR) sensors, and the AGM-65 Missile Boresight Correlator.

6. The AN/ALE-47 Countermeasures Dispensing System is a software reprogrammable dispenser of chaff and flares. It provides for either automatic (via integrated Missile Warning System input) or aircrew commanded response dispense capabilities. Specific dispense routines are sensitive. The export version uses a country unique "look-up decision tree" for determining dispense routines. This software when loaded in the ALE-47 is classified Confidential. Increased risk of exploitation is significantly reduced given that the software is in executable form only, i.e., binary code, and the actual dispense routines can be gained through visual observation.

7. The AN/APX-113 Advanced Identification Friend or Foe System is Unclassified unless MODE IV operational evaluator parameters are loaded into the equipment.

8. The AN/ALQ-187 Advanced Countermeasures Electronic System (ACES) provides passive radar warning, wide spectrum radio frequency jamming, and control and management of the entire electronic warfare (EW) system. It is an internally mounted suite. The commercially developed system software and hardware is Unclassified. The system is classified Secret when loaded with a U.S. derived EW database.

9. The AIM-9M-8/9 SIDEWINDER is a supersonic, heat-seeking, air-to-air missile carried by fighter aircraft. Advanced technology in the AIM-9M includes Active Optical Target Detector, Gyro Optics Assembly within the Guidance Control Section, Infrared Countermeasures, Detection and Rejection Circuitry, and a reduced smoke rocket motor. The hardware, software, and maintenance are classified Confidential. Pilot training, technical data and documentation, which are necessary for performance and operating information, are classified Secret.

10. The AIM-7M (F or H Build) SPARROW is a semiactive, medium range air-to-air missile designed to be either rail or ejection launched. Semiactive, continuous wave, homing radar, and hydraulically-operated control surfaces direct and stabilize the missile on a proportional navigational course to the target. The highest classification level for the AIM-7 missile is Secret.

11. The PAVEWAY II/III (GBU-10/12/24) series of laser guided bombs consists of a guidance kit that converts existing unguided free-fall bombs into precision-guided "smart" munitions. At the core of each PAVEWAY II/III Munitions Kit is a dumb bomb. A laser guidance kit is integrated with each dumb bomb to add the requisite level of accuracy. The kit consists of a computer-controlled group at the front end of the weapon and an airfoil group at the back. When a target is illuminated by a laser, either airborne or ground-based, the guidance fins react to signals from the control group and steer the weapon to the target. This precision-guided munition offers improved accuracy over free-fall bombs, thus providing the potential for reduced collateral damage.

12. The AGM-65D/G/H/K MAVERICK air-to-ground missile has an overall classification of Secret. The Secret aspects of the Maverick system are tactics, information revealing its vulnerability to countermeasures, and counter-countermeasures. Manuals and technical documents, which are necessary for operational use and organizational maintenance have portions that are classified Confidential. Performance and operating logic of the countermeasures circuits are Secret.

13. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

Transmittal No. 10–42

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 10–42 with attached transmittal, policy justification, and sensitivity of technology.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

SEP 24 2010

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding corrected letters, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Canada for defense articles and services. On September 14, 2010 we notified this sale with an estimated value of $72 million. Subsequently, we discovered an administrative error in the letters addressed to the Speaker, U.S. House of Representatives and to the Chairman, Committee on Foreign Relations of the Senate. The enclosed revised letters supersede letters dated September 14, 2010, which incorrectly cited Army as the responsible military department. The responsible military department is the U.S. Air Force. We regret the error.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 10-42

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Canada

(ii) Total Estimated Value:

Major Defense Equipment*	$ 38 million
Other	$ 34 million
TOTAL	$ 72 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: 8 AN/AAQ-24(V) Directional Infrared Countermeasure Systems (DIRCMs), which consist of: 16 Small Laser Transmitter Assemblies (SLTA), 54 Missile Approach Warning Sensors AAR-54(V) (MAWS), 11 AN/AAQ-24(V) Processors, 12 AN/AAQ-24(V) Control Indicator Units, and 21 AAQ-24(V) Smart Cards; 2 SLTA, additional spare components which consist of 6 AAR-54(V) (MAWS), 1 AN/AAQ-24(V) Processors, 1 AN/AAQ-24(V) Control Indicator Units, and 4 AN/AAQ-24(V) Smart Cards; support and test equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government (USG) and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) Military Department: Air Force (QCC)

(v) Prior Related Cases, if any: FMS Case QZZ-$568M-31Jan07

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex.

(viii) Date Report Delivered to Congress: SEP 24 2010

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Canada – AN/AAQ-24(V) Directional Infrared Countermeasure Systems

The Government of Canada has requested a possible sale of 8 AN/AAQ-24(V) Directional Infrared Countermeasure Systems (DIRCMs), which consist of: 16 Small Laser Transmitter Assemblies (SLTA), 54 Missile Approach Warning Sensors AAR-54(V) (MAWS), 11 AN/AAQ-24(V) Processors, 12 AN/AAQ-24(V) Control Indicator Units, and 21 AAQ-24(V) Smart Cards; 2 SLTA, additional spare components which consist of 6 AAR-54(V) (MAWS), 1 AN/AAQ-24(V) Processors, 1 AN/AAQ-24(V) Control Indicator Units, and 4 AN/AAQ-24(V) Smart Cards; support and test equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government (USG) and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $72 million.

The proposed sale will contribute to the foreign policy and national security of the United States by improving the security of a NATO ally that has been, and continues to be, an important force for political stability and economic progress in North America.

The upgrade of Canada's CH-47F CHINOOK helicopters with the DIRCM system will allow Canada to use this capability to enhance the survivability of its aircraft and crew for its medium-high lift helicopter (MHLH) mission at home and abroad. The upgraded CH-47F helicopters will be used during deployments into Afghanistan supporting coalition goals and U.S. national objectives. Canada, which already has AN/AAQ-24(V) systems as part of its CC177 (C-17 equivalent) fleet, will have no difficulty absorbing these additional systems.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be the Northrop Grumman Systems Corporation in Rolling Meadows, Illinois. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Canada.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 10-42

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The AN/AAQ-24(V) Directional Infrared Countermeasure System (DIRCM) is a multi-configuration system readily adaptable to a variety of aircraft. The AN/AAQ-24(V) User Data Module (UDM) and the Control Indicator Unit (CIU) are classified Secret. The system consists of a CIU, Missile Warning System, System Processor, and a Small Laser Transmitter Assembly (SLTA). The DIRCM System increases effectiveness against threats from modern Man-Portable Air Defense Systems and provides fast, accurate threat detection, processing, tracking, and countermeasures to defeat current and future generations of infrared missile threats. Anti-tampering security measures have been incorporated into the AN/AAQ-24(V) System to prevent exploitation of the software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2010–25549 Filed 10–12–10; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 13, 2010.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 7, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title of Collection: High School Longitudinal Study of 2009 (HSLS:09) First Follow-up Field Test 2011.

OMB Control Number: 1850–0852.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 1,036.

Total Estimated Number of Annual Burden Hours: 615.

Abstract: The High School Longitudinal Study of 2009 (HSLS: 09) is a nationally representative, longitudinal study of more than 20,000 ninth graders in 944 schools, who will be followed through their secondary and postsecondary years. The study focuses on understanding students' trajectories from the beginning of high school into university or the workforce and beyond and will provide data on how students navigate the transition between high school and the postsecondary world; and what courses, majors, first job, and careers students decide to pursue when, why, and how, especially, but not

solely, in regards to science, technology, engineering, and math courses, majors, and careers. This study includes a new student assessment in algebraic skills, reasoning, and problem solving and surveys students, their parents, teachers, school administrators, and school counselors. This submission is a request for clearance for a 2011 field test and a 60-day **Federal Register** notice waiver for the 2012 full scale HSLS:09 First Follow-up data collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4415. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–25762 Filed 10–12–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice and Request for Comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before December 13, 2010. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 725 17th Street, NW., Washington, DC 20503 and Tyler Huebner, EE–2K, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, Fax # (202) 586–1233, *tyler.huebner@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Tyler Huebner, EE–2K, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, Fax # (202) 586–1233, t*yler.huebner@ee.doe.gov*.

Reporting requirements concerning the Sustainable Energy Resources for Consumers (SERC) projects are available for review at the following Web site: *http://www1.eere.energy.gov/wip/serc_reporting.html*.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.* "1910–"; (2) *Information Collection Request Title:* "Weatherization Assistance Program, Sustainable Energy Resources for Consumers Grants"; (3) *Type of Review:* New; (4) *Purpose:* To collect information on the status of grantee SERC activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously (especially important for Recovery Act funds); (5) *Annual Estimated Number of Respondents:* 27; (6) *Annual Estimated Number of Total Responses:* 108; (7) *Annual Estimated Number of Burden Hours:* 1,296; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* 0.

Authority: Title IV, Section 411(b) of the Energy Independence and Security Act (EISA), Pub. L. 110–140.

Issued in Washington, DC, on October 6, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–25761 Filed 10–12–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–468–000]

Northern Border Pipeline Company; Notice of Availability of the Environmental Assessment for the Proposed Princeton Lateral Project

October 5, 2010.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Princeton Lateral Project proposed by Northern Border Pipeline Company (Northern Border) in the above referenced docket. Northern Border requests authorization to construct pipeline facilities to transport natural gas from Northern Border's existing pipeline system in Bureau County, Illinois to an interconnection with Central Illinois Light Company d/b/a/ AmerenCILCO (CILCO) near Princeton, Illinois.

The EA assesses the potential environmental effects of the construction and operation of the Princeton Lateral Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Princeton Lateral Project includes the following facilities:

- 8.65 miles of 16-inch-diameter natural gas lateral [1] pipeline;
- a pig [2] launcher assembly located adjacent to the Northern Border Kasbeer side valve site; and
- metering and associated facilities at the CILCO delivery location.

The EA has been placed in the public files of the FERC and is available for public viewing on the FERC's Web site at *http://www.ferc.gov* using the

[1] A lateral is a segment of pipeline that is usually of smaller diameter which branches off the mainline to connect with or serve a specific customer or group of customers.

[2] A "pig" is a tool that is inserted into and moves through the pipeline, and is used for cleaning the pipeline, internal inspections, or other purposes.

eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies of the EA have been mailed to Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are properly recorded and considered prior to a Commission decision on the proposal, it is important that the FERC receives your comments in Washington, DC on or before **November 4, 2010**.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (CP10–468–000) with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You may file your comments electronically by using the *eComment* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings*. An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the *eFiling* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings*. With eFiling you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "*eRegister*." You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing"; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Although your comments will be considered by the Commission, simply filing comments will not serve to make the commenter a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[3] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. **You do not need intervenor status to have your comments considered**.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC or on the FERC Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP10–468). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–25672 Filed 10–12–10; 8:45 am]

BILLING CODE 6717–01–P

[3] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–3242–000]

Eagle Power Authority, Inc; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

October 5, 2010.

This is a supplemental notice in the above-referenced proceeding of Eagle Power Authority, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 25, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–25673 Filed 10–12–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–3319–000]

Astoria Energy II LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

October 5, 2010.

This is a supplemental notice in the above-referenced proceeding of Astoria Energy II LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is October 25, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–25674 Filed 10–12–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD11–2–000]

Transmission Vegetation Management Practices; Notice of Technical Conference

October 5, 2010.

Take notice that the Federal Energy Regulatory Commission (Commission) staff will hold a Technical Conference on Transmission Vegetation Management Programs on Tuesday, October 26, 2010 from 1 p.m. to approximately 5 p.m. This staff-led conference will be held in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The conference will be open for the public to attend and advance registration is not required. Members of the Commission may attend the conference.

The purpose of the conference is to discuss current vegetation management programs and practices as required under the Commission's Reliability Standards. In Order No. 693 the Commission approved Reliability Standard FAC–003–1—Transmission Vegetation Management Program.[1] Reliability Standard FAC–003–1 applies to all transmission lines operated at 200 kV and above, and to lower voltage lines designated as critical to the reliability of the Bulk-Power System.[2]

Certain landowners and other affected parties have raised concerns about changes in vegetation management practices implemented following adoption of FAC–003–1. The Commission is interested in obtaining a better understanding of the scope of any changes in vegetation management practices since FAC–003–1 was approved as mandatory and enforceable, and the extent to which such changes resulted from the requirements imposed under FAC–003–1. The Commission is also interested in obtaining a better understanding of the range of vegetation management practices used by transmission owners, and the reasons for selecting a given practice or methodology over alternatives.

The agenda for this conference will be issued at a later date. Information on this event will be posted on the Calendar of Events on the Commission's Web site, *http://www.ferc.gov,* prior to the event. The conference will be Webcast. Anyone with Internet access who desires to listen to this event can do so by navigating to *http://www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to the Webcast. The Capitol Connection provides technical support for Webcasts and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call 703–993–3100.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about this conference, please contact: Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8368, *sarah.mckinley@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–25671 Filed 10–12–10; 8:45 am]

BILLING CODE 6717–01–P

[1] *See Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 695–735; Order on reh'g, Order No. 693–A, 120 FERC ¶ 61,053 at P 95–99 (2007).

[2] Reliability Standard FAC–003–1, section A.4.3.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9212–9]

Twenty-Fourth Update of the Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Since 1988, the Environmental Protection Agency (EPA) has maintained a Federal Agency Hazardous Waste Compliance Docket (the "Docket") under Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 120(c) requires EPA to establish a Docket that contains certain information reported to EPA by Federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. The Docket is used to identify Federal facilities that should be evaluated to determine if they pose a threat to public health or welfare and the environment and to provide a mechanism to make this information available to the public. The Docket contains information that is submitted by Federal facilities under the following authorities: CERCLA Section 103 and RCRA Sections 3005, 3010 and 3016. EPA is required to publish a list of newly reported facilities in the **Federal Register**.

CERCLA Section 120(d) requires EPA to take steps to assure that a Preliminary Assessment (PA) be completed for those sites identified in the Docket and that the evaluation and listing of sites with a PA be completed within a reasonable time frame. The PA is designed to provide information for EPA to consider when evaluating the site for potential response action or inclusion on the National Priorities List (NPL).

Today's notice identifies the Federal facilities not previously listed on the Docket and reported to EPA since the last update of the Docket (73 FR 228) on November 25, 2008. In addition to the list of additions to the Docket, this notice includes a section with revisions of the previous Docket list. Thus, the revisions in this update include 57 additions and 31 deletions, as well as one correction to the Docket since the previous update. At the time of publication of this notice, the new total number of Federal facilities listed on the Docket is 2,297.

DATES: This list is current as of September 21, 2010.

FOR FURTHER INFORMATION CONTACT: Electronic versions of the Docket and more information on its implementation can be obtained at *http://www.epa.gov/fedfac/documents/docket.htm* by clicking on the link for *Update #24 to the Federal Agency Hazardous Waste Compliance Docket.*

SUPPLEMENTARY INFORMATION:

Table of Contents

1.0 Introduction
2.0 Regional Docket Coordinators
3.0 Revisions of the Previous Docket
4.0 Process for Compiling the Updated Docket
5.0 Facilities Not Included
6.0 Facility Status Reporting
7.0 Information Contained on Docket Listing

1.0 Introduction

Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 United States Code (U.S.C.) 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires the U.S. Environmental Protection Agency (EPA) to establish the Federal Agency Hazardous Waste Compliance Docket ("Docket"). The Docket contains information on Federal facilities that is submitted by Federal agencies to EPA under Sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937, and under Section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA Section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA Section 3010 requires waste generators, transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA Section 3016 requires Federal agencies to submit biennially to EPA an inventory of their Federal hazardous waste facilities. CERCLA Section 103(a) requires the owner or operator of a vessel or onshore or offshore facility to notify the National Response Center (NRC) of any spill or other release of a hazardous substance that equals or exceeds a reportable quantity (RQ), as defined by CERCLA Section 101. Additionally, CERCLA Section 103(c) requires facilities that have "stored, treated, or disposed of" hazardous wastes and where there is "known, suspected, or likely releases" of hazardous substances to report their activities to EPA.

The Docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a risk to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in Section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public.

The initial list of Federal facilities to be included on the Docket was published in the Federal Register on February 12, 1988 (53 FR 4280). Since then, updates to the Docket have been published on November 16, 1988 (54 FR 46364); December 15, 1989 (54 FR 51472); August 22, 1990 (55 FR 34492); September 27, 1991 (56 FR 49328); December 12, 1991 (56 FR 64898); July 17, 1992 (57 FR 31758); February 5, 1993 (58 FR 7298); November 10, 1993 (58 FR 59790); April 11, 1995 (60 FR 18474); June 27, 1997 (62 FR 34779); November 23, 1998 (63 FR 64806); June 12, 2000 (65 FR 36994); December 29, 2000 (65 FR 83222); October 2, 2001 (66 FR 50185); July 1, 2002 (67 FR 44200); January 2, 2003 (68 FR 107); July 11, 2003 (68 FR 41353); December 15, 2003 (68 FR 240); July 19, 2004 (69 FR 42989); December 20, 2004 (69 FR 75951); October 25, 2005 (70 FR 61616); August 17, 2007 (72 FR 46218); and November 25, 2008 (73 FR 228). This notice constitutes the twenty-fourth update of the Docket.

Today's notice provides some background information on the Docket. Additional information on the Docket requirements and implementation are found in the Docket Reference Manual, Federal Agency Hazardous Waste Compliance Docket found at *http://www.epa.gov/fedfac/documents/docket.htm* or obtained by calling the Regional Docket Coordinators listed below. Today's notice also provides changes to the list of sites included on the Docket in three areas: (1) Additions, (2) Deletions, and (3) Corrections. Specifically, additions are newly identified Federal facilities that have been reported to EPA since the last update and now are included on the Docket; the deletions section lists Federal facilities that EPA is deleting from the Docket; and the corrections section lists changes in the information about the Federal facilities already listed on the Docket.[1] The information submitted to EPA on each Federal facility is maintained in the Docket repository located in the EPA Regional office of the Region in which the facility is located; for a description of the information required under those provisions, see 53 FR 4280 (February 12, 1988). Each repository contains the

[1] *See* Section 3.2 for the criteria for being deleted from the Docket.

documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each facility.

In prior updates, information was also provided regarding No Further Remedial Action Planned (NFRAP) Status Changes. As information on NFRAP and NPL status is available at: *http://www.epa.gov/fedfac/documents/docket.htm* or by contacting Tim Mott, Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office (Mail Code 5106P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, it is no longer being provided separately in the Docket update.

2.0 Regional Docket Coordinators

Contact the following Docket Coordinators for information on Regional Docket repositories:

Martha Bosworth (HBS), US EPA Region 1, 5 Post Office Square, Suite 100, Mail Code: OSRR07–2, Boston MA 02109–3912, (617) 918–1407.

Helen Shannon (ERRD), US EPA Region 2, 290 Broadway, 18th Floor, New York, NY 10007–1866, (212) 637–4260 or Alida Karas (ERRD), US EPA Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637–4276.

Joseph Vitello (3HS12), US EPA Region 3, 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3354.

Dawn Taylor (4SF–SRSEB), US EPA Region 4, 61 Forsyth St., SW, Atlanta, GA 30303, (404) 562–8575.

Michael Chrystof (SR–6J), US EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–3705.

Philip Ofosu (6SF–RA), US EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–3178.

Todd H. Davis (ERNB), US EPA Region 7, 901 N. Fifth Street, Kansas City, KS 66101, (913) 551–7749.

Ryan Dunham (EPR–F), US EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202, (303) 312–6627.

Carol Weinstein (SFD–6–1), US EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3083 or Debbie Schechter (SFD–6–1), US EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3093.

Monica Lindeman (ECL, ABU # 1), US EPA Region 10, 1200 Sixth Avenue, Suite 900, ECL–112, Seattle, WA 98101, (206) 553–5113 or Ken Marcy (ECL, ABU # 1), US EPA Region 10, 1200 Sixth Avenue, Suite 900, ECL–112, Seattle, WA 98101, (206) 463–1349.

3.0 Revisions of the Previous Docket

This section includes a discussion of the additions, deletions, and corrections to the list of Docket facilities since the previous Docket update.

3.1 Additions

Today, 57 Federal facilities are being added to the Docket, primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA Sections 3005, 3010, or 3016 or CERCLA Section 103). CERCLA Section 120, as amended by the Defense Authorization Act of 1997, specifies that EPA take steps to assure that a Preliminary Assessment (PA) be completed within a reasonable time frame for those Federal facilities that are included on the Docket. Among other things, the PA is designed to provide information for EPA to consider when evaluating the site for potential response action or listing on the NPL.

3.2 Deletions

Today, 31 Federal facilities are being deleted from the Docket. There are no statutory or regulatory provisions that address deletion of a facility from the Docket. However, if a facility is incorrectly included on the Docket, it may be deleted from the Docket; this may be appropriate for a facility for which there was an incorrect report submitted for hazardous waste activity under RCRA (*e.g.,* 40 CFR 262.44); a facility that was not Federally-owned or operated at the time of the listing; facilities included more than once (*i.e.,* redundant listings); or when multiple facilities are combined under one listing. Facilities being deleted no longer will be subject to the requirements of CERCLA Section 120(d).

3.3 Corrections

Changes necessary to correct the previous Docket are identified by both EPA and Federal agencies. The corrections section may include changes in addresses or spelling, and corrections of the recorded name and ownership of a Federal facility. In addition, changes in the names of Federal facilities may be made to establish consistency in the Docket or between CERCLIS and the Docket. For the Federal facility for which a correction is entered, the original entry (designated by an "o"), as it appeared in previous Docket updates, is shown directly below the corrected entry (designated by a "c") for easy comparison. Today, information is being corrected for one (1) facility.

4.0 Process for Compiling the Updated Docket

In compiling the newly reported Federal facilities for the update being published today, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—the Emergency Response Notification System (ERNS), the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Information System (RCRAInfo), and CERCLIS—that contain information about Federal facilities submitted under the four provisions listed in CERCLA Section 120(c).

EPA assures the quality of the information on the Docket by conducting extensive evaluation of the current Docket list with the information obtained from the databases identified above to determine which Federal facilities were, in fact, newly reported and qualified for inclusion on the update. EPA is also striving to correct errors for Federal facilities that were previously reported. For example, state-owned or privately-owned facilities that are not operated by the Federal government may have been included. Such problems are sometimes caused by procedures historically used to report and track Federal facilities data. Representatives of Federal agencies are asked to write to the EPA HQ Docket Coordinator at the following address if revisions of this update information are necessary: Tim Mott, Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office (Mail Code 5106P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue,NW., Washington, DC 20460.

5.0 Facilities Not Included

Certain categories of facilities may not be included on the Docket, such as: (1) Federal facilities formerly owned by a Federal agency that at the time of consideration was not Federally-owned or operated; (2) Federal facilities that are small quantity generators (SQGs) that have never generated more than 1,000 kg of hazardous waste in any month; (3) Federal facilities that are solely hazardous waste transportation facilities, as reported under RCRA Section 3010; and (4) Federal facilities that have mixed mine or mill site ownership. An EPA policy issued in June 2003 provided guidance for a site-by-site evaluation as to whether "mixed ownership" mine or mill sites, typically created as a result of activities conducted pursuant to the General Mining Law of 1872 and never reported

under Section 103(a), should be included on the Docket. For purposes of that policy, mixed ownership mine or mill sites are those located partially on private land and partially on public land. This policy is found at *http://www.epa.gov/fedfac/pdf/mixownrshpmine.pdf*. The policy for not including these facilities may change; facilities now not included may be added at some point if EPA determines that they should be included.

6.0 Facility NPL Status Reporting, Including NFRAP Status

EPA typically tracks the NPL status of Federal facilities listed on the Docket. An updated list of the NPL status of all Docket facilities, as well as their NFRAP status, is available at *http://www.epa.gov/fedfac/documents/docket.htm* or by contacting Tim Mott, Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office (Mail Code 5106P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. In prior updates, information regarding NFRAP status changes was provided separately.

7.0 Information Contained on Docket Listing

The updated information is provided in three tables. The first table is a list of new Federal facilities that are being added on the Docket; the second table is a list of Federal facilities that are being deleted from the Docket; and the third table contains corrections of information included on the Docket.

The facilities listed in each table are organized by state and then grouped alphabetically within each state by the Federal agency responsible for the facility. Under each state heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and a code.[2] The code key precedes the lists.

The statutory provisions under which a facility is reported are listed in a column titled "Reporting Mechanism." Applicable mechanisms are listed for each facility: for example, Sections 3005, 3010, 3016, 103(c), or Other. "Other" has been added as a reporting mechanism to indicate those Federal facilities that otherwise have been identified to have releases or threat of releases of hazardous substances. The National Contingency Plan 40 CFR 300.405 addresses discovery or notification, outlines what constitutes discovery of a hazardous substance release, and states that a release may be discovered in several ways, including: (1) A report submitted in accordance with Section 103(a) of CERCLA, i.e., reportable quantities codified at 40 CFR part 302; (2) a report submitted to EPA in accordance with Section 103(c) of CERCLA; (3) investigation by government authorities conducted in accordance with Section 104(e) of CERCLA or other statutory authority; (4) notification of a release by a Federal or state permit holder when required by its permit; (5) inventory or survey efforts or random or incidental observation reported by government agencies or the public; (6) submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with Section 105(d) of CERCLA; (7) a report submitted in accordance with Section 311(b)(5) of the CWA; and (8) other sources. As a policy matter, EPA generally believes it is appropriate for Federal facilities identified through the CERCLA discovery and notification process to be included on the Docket.

The complete list of Federal facilities that now make up the Docket and the NPL and NFRAP status are available to interested parties and can be obtained at *http://www.epa.gov/fedfac/documents/docket.htm* by clicking on the link for *Federal Agency Hazardous Waste Compliance Docket Update #24* or by calling Tim Mott, the EPA HQ Docket Coordinator, at (703) 603–8807. As of today, the total number of Federal facilities that appear on the Docket is 2,358.

Dated: September 29, 2010.

John E. Reeder,

Director, Federal Facilities Restoration and Reuse Office, Office of Solid Waste and Emergency Response.

Docket Codes

Categories for Deletion of Facilities

(1) Small-Quantity Generator.
(2) Never Federally Owned and/or Operated.
(3) Formerly Federally Owned and/or Operated but not at time of listing.
(4) No Hazardous Waste Generated.
(5) (This code is no longer used.)
(6) Redundant Listing/Site on Facility.
(7) Combining Sites Into One Facility/Entries Combined.
(8) Does Not Fit Facility Definition.

Categories for Addition of Facilities

(15) Small-Quantity Generator with either a RCRA 3016 or CERCLA 103 Reporting Mechanism.
(16) One Entry Being Split Into Two (or more)/Federal Agency Responsibility Being Split.
(17) New Information Obtained Showing That Facility Should Be Included.
(18) Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility.
(19) Sites Were Combined Into One Facility.
(19A) New currently Federally owned and/or operated Facility site.

Categories for Corrections of Information About Facilities

(20) Reporting Provisions Change.
(20A) Typo Correction/Name Change/Address Change.
(21) Changing Responsible Federal Agency. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)
(22) Changing Responsible Federal Agency and Facility Name. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)
(24) Reporting Mechanism Determined To Be Not Applicable After Review of Regional Files.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #24—ADDITIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
US NAVY NUWC Div Newport Deadhorse Airport ERA Hanger.	419 Dalton Highway	Prudhoe Bay	AK	99734	Navy	3010	19A

[2] Each Federal facility listed in the update has been assigned a code that indicates a specific reason for the addition or deletion. The code precedes this list.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #24—ADDITIONS—Continued

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
USDA FS Chugach NF: Culross Mine & Mill Site.	SE Slope above Culross Bay	Whittier	AK	99693	Agriculture	Other	19A
USDA FS Tongass NF: Cascade Prospect.	T74S R84E Sec 1	Hollis	AK	99921	Agriculture	Other	19A
USDA FS Tongass NF: Coffman Cove Road.	Forest Service Road 3030	Coffman Cove	AK	99918	Agriculture	Other	19A
USDA FS Tongass NF: Duck Creek Administrative Site.	9050 Atlin Rd, NW Corner of Atlin Dr & Teslin St.	Juneau	AK	99801	Agriculture	3010	19A
USDA FS Tongass NF: Khayyam Stumble-On Mine.	Between Polk Inlet and Chomley Sound, Prince of Wales Island.	Thorne Bay	AK	99919	Agriculture	Other	19A
USDA FS Tongass NF: Lucky Nell Mine.	T73S R83E Sec 28	Hollis	AK	99921	Agriculture	Other	19A
USDA FS Tongass NF: Puyallup Mine.	T73S R84E Sec 31	Hollis	AK	99921	Agriculture	Other	19A
USDOI BLM Kolmakof Mine	T17N R53W Sec 6 N½, Seward Meridian, N. Bank of Kuskokwim Rivr.	Aniak	AK	99557	Interior	3010	19A
USDOI BLM John Rishel Mineral Information Center.	100 Savikko Rd, Mayflower Island—Juneau.	Douglas	AK	99824	Interior	3010	19A
USDOC NOAA National Marine Fisheries: Juneau Lab.	11305 Glacier Hwy	Auke Bay	AK	99821	Commerce	3010	19A
VAMC, San Francisco (138ES)	4150 Clement Street	San Francisco	CA	94121	Veterans Affairs	3010	19A
U.S. Coast Guard Sector San Diego.	2710 North Harbor Drive	San Diego	CA	92101	Homeland Security	3010	19A
Poplar Point Nursery	1900 Anacostia Drive	Washington	DC	20020	Interior	103(c)	17
Transportation Security Administration.	1336 NW 78th Ave	Doral	FL	33126–1606	Homeland Security	3010	19A
Commander Navy Region Southeast.	8998 Blount Island Blvd	Jacksonville	FL	32226–4033	Navy	3010	19A
United Launch Alliance CCAFS Delta IV Program.	Beach Road	CCAFS	FL	32920–9009	Air Force	3010	19A
Transportation Security Administration.	6000 North Terminal Pkwy	Atlanta	GA	30320	Homeland Security	3010	19A
Fort McPherson	1322 Cobb Street SW	Fort McPherson	GA	30330	Army	3010	19A
USDA FS Caribou-Targhee NF: Central Rasmussen Ridge Mine.	T6S R42E	Soda Springs	ID	83201	Agriculture	Other	19A
USDA FS Caribou-Targhee NF: Champ Mine.	T9S R44E Sec 2	Soda Springs	ID	83201	Agriculture	Other	19A
USDA FS Caribou-Targhee NF: Diamond Gulch Mine.	T9S R43E Sec 28	Soda Springs	ID	83201	Agriculture	Other	19A
USDA FS Caribou-Targhee NF: Mountain Fuel Mine.	T9S R44E Sec 14,15,23,25,26,35,36.	Soda Springs	ID	83201	Agriculture	Other	19A
USDA FS Caribou-Targhee NF: North Maybe Canyon Mine.	T7S R44E Sec 20,21,27,28,33,34; T8S R44E Sec 3,4.	Soda Springs	ID	83201	Agriculture	Other	19A
USDA FS Caribou-Targhee NF: South Maybe Canyon Mine.	T8S R44E Sec 4	Soda Springs	ID	83201	Agriculture	Other	19A
USDA FS Caribou-Targhee NF: Wooley Valley Mine.	T6S R43E Sec 32,33; T7S R43E Sec 3,10,11,13,14,23,24,25; T7S R44E Sec 19.	Soda Springs	ID	83201	Agriculture	Other	19A
USDOI BLM Red Elephant Mill Site.	Croy Road, 7 mi SW of Hailey T2N R17E Sec 28 SE¼ SE¼, Boise Meridian.	Hailey	ID	83333	Interior	Other	19A
VA Medical Center	3001 Green Bay Rd	North Chicago	IL	60064	Veterans Affairs	3010	19A
TSA Rotunda Mez Lev Term 2&3.	10000 Bessie Coleman Dr	Chicago	IL	60666	Homeland Security	3010	19A
NIH Chemical Gemonics Center	9800 Medical Center Dr	Rockville	MD	20850	Health and Human Services	3010	19A
Transportation Security Administration.	McNamara Terminal	Romulus	MI	48242	Homeland Security	3010	19A
US Army Garrison Camp Mackall.	1500 Camp Mackall Place	Marston	NC	28363	Army	3010	19A
TSA—Newark International Airport.	614 Frelinghysen Ave 3rd Floor	Newark	NJ	07114	Homeland Security	3010	19A
Bath Veterans Affairs Medical Center.	76 Veterans Avenue	Bath	NY	14810	Veterans Affairs	3010	19A
TSA at JFK International Airport	230–59 Rockaway Blvd	Jamaica	NY	11413	Homeland Security	3010	19A
Transportation Security Administration.	Hangar #3	La Guardia Airport.	NY	11371	Homeland Security	Other	19A
GSA—Thurgood Marshall U.S. Courthouse.	40 Centre Street	New York	NY	10007	GSA	3010	19A
Mount Morris Dam Area of Concern.	6103 Visitor Center	Mount Morris	NY	14510	Corps of Engineers, Civil	Other	19A
USDA FS Malheur NF: Idol City Mine.	FS Road 3935–630, T21S R32E Sec 4,9, 20 mi NE of Burns.	Burns	OR	97720	Agriculture	Other	19A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #24—ADDITIONS—Continued

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
USDA FS Mt. Hood NF: Kiggins & Nisbet Mine.	FS Road 4630–024, T6S R7E Sec 5 SE¼ NE¼; T6S R7E Sec 5 NE¼ SW¼; 30 mi SE of Estacada.	Estacada	OR	97023	Agriculture	Other	19A
USDA FS Willamette NF: Morning Star Mine.	FS Road 079, 10 mi W of Bourne.	Bourne	OR	97877	Agriculture	Other	19A
USDA FS Willamette NF: Ruth Mine.	FS Road 2209, 8 air mi NE of Elkhorn T8S R5E Sec 27.	Elkhorn	OR	97045	Agriculture	Other	19A
COE–Civil Detroit Dam 960433	NF Road 2212 & N Santiam Hwy 22,T10S R5E Sec 7 W½, WM.	Mill City	OR	97360	Corps of Engineers, Civil	3010	19A
171st Air Refueling Wing PAANG.	300 Tanker Rd	Moon Township	PA	15108	Air Force	3010	19A
VA Caribbean Healthcare System.	10 Casia Street	Rio Piedras	PR	00921	Veterans Affairs	3010	19A
TSA at Luis M Marin Intl Airport—SJU.	Terminal D Ste 4010 Airport Sta.	Carolina	PR	00979	Homeland Security	3010	19A
Sioux Falls VA Medical Center	2501 West 22nd Street	Sioux Falls	SD	57117	Veterans Affairs	3010	19A
Transportation Security Administration.	3100 S Terminal Rd	Houston	TX	77032	Homeland Security	3010	19A
USA Radford Ammunition Plant	State Route 114	Radford	VA	24141	Army	Other	19A
USVA PSHCS American Lake Division.	Veterans Dr., American Lake	Tacoma	WA	98493	Veterans Affairs	3010	19A
USDA FS Colville NF: Longshot Mine & Mill.	T36N R41E Sec 18 E½, 11 mi NE of Colville.	Colville	WA	99114	Agriculture	Other	19A
USDA FS Okanogan-Wenatchee NF: Azurite Mine.	Gated Road off Slate Creek Rd off USFS Rd 5400 off State Route 20; T37N R17E Sec 30 NE¼NE¼, WM.	Mazama	WA	98833	Agriculture	Other	19A
USDA FS Olympic NF: Quinault Office of Pacific Ranger District—South.	353 S Shore Rd	Quinault	WA	98575	Agriculture	3010	19A
US DA FS Olympic NF: Snider Work Center of Pacific Ranger District—North.	553 W Snider Rd	Port Angeles	WA	98363	Agriculture	3010	19A
USDOI Bureau of Reclamation Benton City Site.	39307 W Kelly Rd	Benton City	WA	99320	Interior	3010	19A
USGS Columbia River Research Laboratory.	5501 Cook Underwood Road, Ste A.	Cook	WA	98605	Interior	3010	19A
USVA William S Middleton Memorial Hospital.	2500 Overlook Terrace	Madison	WI	53705–2254	Veterans Affairs	3010	19A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #24—CORRECTIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
c-Federal Prison Industries, Inc. (Unicor).	741 925 Herlong Access Rd. A25.	Herlong	CA	96113	Justice	3010	20A
o-Federal Correctional Institution Herlong.	741 925 Herlong Access Rd	Herlong	CA		Justice	3010	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #24—DELETIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
Maricopa County Parks & Recreation Maintenance Yd.	41000 North 99th Avenue	Phoenix	AZ	85027		3016	2
Maricopa Water District Lands	41000 North 99th Avenue	Phoenix	AZ	85027		3016	2
Phelps Dodge Historical Smelter	Hwy 92	Bisbee	AZ	85603		103c	2
Oryx Henry	OCSP0240 Plat. Henry Cont. Shelf.	Santa Barbara Channel.	CA	93013		3010	2
Synthesis Technologies Inc	835 Dawson Drive	Newark	DE	19713		3010	2
Busick Farm	State Road 360	Madison	FL	32340		3016	2
Dean D. Mitchell Farm	Rt 1	Liberty	KS	67351		3016, 103c	2
Ace Professional Finishing Co	1113 Old N Point Rd Bldg H	Baltimore	MD	21222		3010	2
John J. Pershing Medical Center	1500 N Westwood Blvd	Poplar Bluff	MO	63901	Veterans Affairs	3010 103c	1
Bilbo Pennington Property	Rt. 2	Sumner	MS	38957		3016	2
Ted Smith Property	State Route 1903	Parkton	NC	28371		3016	2
Samuel S Stralton VA Medical Center.	113 Holland Ave	Albany	NY	12208	Veterans Affairs	3010	1
Allegheny County Department of Maintenance.	Old Freeport Rd Blawnox Gar	Pittsburgh	PA	15238		3010	2
Edgely Manor Industrial Park (Simon Site).	Silvi Avenue	Bristol Township.	PA	19007		103c	2
Fypon, Inc.	22 W Pennsylvania Ave	Stewartstown	PA	17363		3010	2
Lake Region Medical Inc	620 Alpha Dr Ridc East	Pittsburgh	PA	15238		3010	2

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #24—DELETIONS—Continued

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
Mill Creek Site		Erie	PA			103a	2
Port Clinton Site	RT 61	Port Clinton	PA	19549		3010	2
PSP Lancaster Barracks	RT. 30 E.	Lancaster	PA			103a	2
Sun Oil Co-Chevron International Corp..	3001 Penrose Avenue	Philadelphia	PA	19145		103c	2
Tennessee Gas Pipeline	Turkey Run (Station 319)	Wyalusing	PA	18853		3010	2
Hutto-Green Warehouse	Pascallas St. & Valley Dr	Blackville	SC	29817		3016	2
Southern Architectural Woodwork.	7402 Fairfield Rd.	Columbia	SC	29203		3010	2
Hub City Inc	524 13th St West	Brookings	SD	57006		3010	2
Naval Support Activity Mid-South	Willis Gate@ Navy Road	Millington	TN	38054	Navy	3010	6
McMillen Target Site	FM 624 10M W Hwy 16	Tilden	TX	78072		3010	2
Comarco IBS Bus Maintenance Garage.	51 Post Office Rd	Gravelly Point	VA	22202		3010	2
Lynn Haven Bay Site		Lynn Haven Shores.	VA	23451		103c	2
New England Log Homes, Inc	Old Route 58 West	Lawrenceville	VA	23868		103c	2
Sutton Enterprises Inc.	1067 "A" Alexandria Lane	Chesapeake	VA	23320		103c 3010	2
Cytec Industries Chemical Fire	Route 2 South	Belmont	WV	26134		103c	2

[FR Doc. 2010–25786 Filed 10–12–10; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act; Notice of Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Wednesday, October 20, 2010, 9:30 a.m. Eastern Time.

PLACE: Commission Meeting Room on the First Floor of the EEOC Office Building, 131 "M" Street, NE., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Votes, and
2. Employer Use of Credit History as a Screening Tool.

Note: In accordance with the Sunshine Act, the meeting will be open to public observation of the Commission's deliberations and voting. Seating is limited and it is suggested that visitors arrive 30 minutes before the meeting in order to be processed through security and escorted to the meeting room. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings. The EEOC provides sign language interpretation and Communication Access Realtime Translation (CART) services at Commission meetings for the hearing impaired. Requests for other reasonable accommodations may be made by using the voice and TTY numbers listed above. *Contact Person for More Information:* Stephen Llewellyn, Executive Officer on (202) 663–4070.

This Notice issued October 8, 2010.

Stephen Llewellyn,

Executive Officer, Executive Secretariat.

[FR Doc. 2010–25869 Filed 10–8–10; 4:15 pm]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 4, 2010.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 13, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at (202) 395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by e-mail, send them to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information, contact Leslie F. Smith at (202) 418–0217, or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0589.

Title: FCC Remittance Advice Forms.

Form Number(s): Form 159, Remittance Advice; Form 159–C, Remittance Advice Continuation Sheet; Form 159–B, Remittance Advice Bill for Collection; Form 159–E, Remittance Voucher; and Form 159–W, Interstate Telephone Service Provider Worksheet.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit

entities; Not-for-profit institutions; Federal government; and State, local, or tribal governments.

Number of Respondents: 156,000.

Estimated Time per Response: 0.25 hours (15 minutes).

Frequency of Response: On occasion and annual reporting requirements; Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 39,000 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impacts.

Nature and Extent of Confidentiality: The FCC has a system of records, FCC/OMD–9, "Commission Registration System (CORES)," to cover the collection, purpose(s), storage, safeguards, and disposal of the personally identifiable information (PII) that individual respondents may submit on one or more of these forms.

Needs and Uses: The FCC supports a series of remittance advice forms and a remittance voucher form that may be submitted in lieu of a remittance advice form when entities or individuals electronically file a payment. A remittance advice form (or a remittance voucher form in lieu of an advice form) must accompany any payment to the Federal Communications Commission (*e.g.* payments for regulatory fees, application filing fees, auctions, fines, forfeitures, Freedom of Information Act (FOIA) billings, or any other debt due to the FCC. Information is collected on these forms to ensure credit for full payment, to ensure entities and individuals receive any refunds due, to service public inquiries, and to comply with the Debt Collection Improvement Act of 1996.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2010–25780 Filed 10–12–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 5, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 13, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget via fax at 202–395–5167 or via e-mail to *Nicholas_A._Fraser@omb.eop.gov* and to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov*. Include in the e-mail the OMB control number of the collection. If you are unable to submit your comments by e-mail contact the person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0110.

Title: Application for Renewal of Broadcast Station License; Section 73.3555(d), Daily Newspaper Cross-Ownership.

Form Number: FCC Form 303–S.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; Not-for-profit institutions; State, Local or Tribal Governments.

Number of Respondents and Responses: 3,821 respondents and 3,821 responses.

Estimated Time per Response: 1.25–12 hours.

Frequency of Response: Eight year reporting requirement; Third party disclosure requirement.

Total Annual Burden: 10,480 hours.

Total Annual Costs: $3,898,510.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained Sections 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On December 18, 2007, the Commission adopted a *Report and Order and Third Further Notice of Proposed Rulemaking* (the "Order") in MB Docket Nos. 07–294; 06–121; 02–277; 04–228; MM Docket Nos. 01–235; 01–317; 00–244; FCC 07–217. The Order adopted rule changes designed to expand opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses. Consistent with actions taken by the Commission in the Order, the following changes are made to Form 303–S: The instructions have been revised to incorporate a definition of "eligible entity," which will apply to the Commission's existing Equity Debt Plus ("EDP") standard, one of the standards used to determine whether interests are attributable. Section II includes a new certification for licensees to certify that their advertising sales agreements do not discriminate on the basis of race or ethnicity and that all such agreements held by the licensee contain nondiscrimination clauses. The instructions for Section II have been revised to include a new description of the certification.

Second, Section III includes a new question, Item 4, requiring licensees to certify that, during the preceding license term, the station has not been silent (or operating for less than its prescribed minimum operating hours) for any period of more than 30 days, consistent with the Commission's rules. If a licensee cannot so certify, it must submit an exhibit specifying the exact dates in the preceding license term on which the station was silent or operating for less than its prescribed minimum hours. *See* 47 CFR 73.1740 (Commercial Broadcast Stations); 47 CFR 73.561 (Noncommercial Educational FM Stations); 47 CFR 73.850 (Low-power FM Stations); and 47 CFR 73.1745(b); 47 CFR 73.1740(b)

(Noncommercial Educational AM Stations). *See also* 47 U.S.C. 309(k) (Statutory Standards for Broadcast Renewal Procedures); *Birach Broadcasting Corp.,* 16 FCC Rcd 5015, 5020 (2001) (holding that a station's failure to provide any service during the license term is material to whether it served the public interest, convenience, and necessity pursuant to Section 309(k)). Consistent with the holding in *Birach,* the Commission's rules for minimum operating schedules, and the renewal standards set forth in Section 309(k), Section III includes the new certification and the instructions to include a new description of the certification.

Section III, Item 7 (previously Item 6), has been revised to eliminate the requirement that full power AM and FM licensees submit an exhibit to demonstrate compliance with the Commission's maximum permissible radio frequency ("RF") electromagnetic exposure limits, in the event that they are unable or not eligible to use the RF worksheets contained in the instructions of the Form. All applicants continue to be required to certify that their facilities comply with the Commission's maximum permissible RF limits. The elimination of the exhibit requirement for radio broadcasters, conforms the question so it is now consistent with the requirements for licensees of broadcast television stations, translator (FM and TV stations), and low-power FM stations, who are not required to submit an exhibit. The instructions for Section III, Item 7 and Worksheet #1 Environmental have been revised accordingly.

Finally, Section V, Item 4 has been revised to clarify that Low Power TV ("LPTV") stations still need to file Form 396 with the renewal application, but that they may or may not need to file a public file report and post it to their Web site. One word was changed. The old version said at the end that the stations certify that they have created the public file report and posted it to their Web sites "as" required by regulation. The word "as" was replaced with the word "if." As now explained in an addition made to the instructions for Section V, Item 4, only LPTV stations that are part of a station employment unit with full-power stations, where the unit employs at least five or more full-time employees, needs to file a public file report and post it to the station Web site. Other LPTV stations do not have to create a public file report because they do not have a public file.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2010–25778 Filed 10–12–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

September 30, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 12, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167, or via e-mail to *Nicholas_A._Fraser@omb.eop.gov* and to Cathy Williams, Federal Communications Commission (FCC) via e-mail at *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number of the collection as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918, or via Internet at *Cathy.Williams@fcc.gov*, and/or *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1078.

Title: Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, CG Docket No. 04–53.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; Individuals or households.

Number of Respondents and Responses: 5,443,062 respondents; 5,443,062 responses.

Estimated Time per Response: 1–10 hours (average per response).

Frequency of Response: Recordkeeping requirement; On occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is the CAN–SPAM Act of 2003, 15 U.S.C. 7701–7713, Pub. L. 108–187, 117 Stat. 2719.

Total Annual Burden: 30,254,373 hours.

Total Annual Cost: $16,244,026.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB–1, "Informal Complaints and Inquiries." As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published SORN, FCC/CGB1, "Informal

Complaints and Inquiries," in the **Federal Register** on December 15, 2009 (74 FR 66356), which became effective on January 25, 2010.

Privacy Impact Assessment: Yes. The Privacy Impact Assessment was completed on June 28, 2007. It may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: The reporting requirements included under this OMB Control Number 3060–1078 enable the Commission to collect information regarding violations of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN–SPAM Act). This information is used to help wireless subscribers stop receiving unwanted commercial mobile services messages.

On August 12, 2004, the Commission released an *Order,* Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, CG Docket No. 04–53, FCC 04–194, published at 69 FR 55765, September 16, 2004, adopting rules to prohibit the sending of commercial messages to any address referencing an Internet domain name associated with wireless subscribers' messaging services, unless the individual addressee has given the sender express prior authorization. The information collection requirements consist of 47 CFR 64.3100(a)(4), (d), (e) and (f) of the Commission's rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2010–25752 Filed 10–12–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; FCC To Hold Open Commission Meeting Thursday, October 14, 2010

October 7, 2010.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, October 14, 2010, which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Consumer & Governmental Affairs	*Title:* Empowering Consumers to Avoid Bill Shock; Consumer Information and Disclosure (CG Docket No. 09–158). *Summary:* The Commission will consider a Notice of Proposed Rulemaking seeking comment on rules requiring mobile carriers to provide usage alerts and related information that will assist consumers in avoiding unexpected charges on their bills.
2	Wireless Tele-Communications and Wireline Competition	*Title:* Universal Service Reform; Mobility Fund *Summary:* The Commission will consider a Notice of Proposed Rulemaking seeking comment on a proposal to use recently reserved universal service funds to create a Mobility Fund to support private investment in current (3G) and next-generation mobile services in areas where consumers currently lack such services.
3	Media	*Title:* Implementation of Section 304 of the Telecommunications Act of 1996 (CS Docket No. 97–80); Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment (PP Docket No. 00–67); Oceanic Time Warner Cable, A subsidiary of Time Warner Cable, Inc.; Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Kauai Cable System; Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Oahu Central Cable System; and Cox Communications, Inc., Fairfax County, Virginia Cable System; Cable One, Inc.'s Request for Waiver of Section 76.1204(a) of the Commission's Rules. *Summary:* The Commission will consider a Third Report and Order and Order on Reconsideration that will make changes to the FCC's CableCARD rules to improve the consumer experience with the video navigation devices used with cable services and promote the development of a competitive market for such devices.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *http://www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2010–25933 Filed 10–8–10; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as "of record" notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: October 1, 2010.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10295	Shoreline Bank	Shoreline	WA	10/1/2010
10296	Wakulla Bank	Crawfordville	FL	10/1/2010

[FR Doc. 2010–25631 Filed 10–12–10; 8:45 am]

BILLING CODE P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS10–5]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of meeting.

DESCRIPTION: In accordance with Section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

LOCATION: FDIC Building, 1776 F Street NW., Room 4085, Washington, DC 20429.

DATE: October 13, 2010.

TIME: 10:30 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA: September 22, 2010 minutes—Open Session.

Louisiana Compliance Review.

Texas Compliance Review.

(No substantive discussion of the above items is anticipated. These matters will be resolved with a single vote unless a member of the ASC requests that an item be moved to the discussion agenda.)

DISCUSSION AGENDA: National Registry Fee.

HOW TO ATTEND AND OBSERVE AN ASC MEETING: E-mail your name, organization and contact information to *meetings@asc.gov.* You may also send a written request via U.S. Mail, fax or commercial carrier to the Executive Director of the ASC, 1401 H Street NW., Ste. 760, Washington, DC 20005. Your request must be received no later than midnight, ET, on Tuesday, October 12, 2010. Attendees must have a valid government-issued photo ID and must agree to submit to reasonable security measures. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis.

Dated: October 6, 2010.

James R. Park,

Executive Director.

[FR Doc. 2010–25659 Filed 10–12–10; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS10–6]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of Meeting.

Description: In accordance with Section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in closed session:

Location: FDIC Building, 1776 F Street, NW., Room 4085, Washington, DC 20429.

Date: October 13, 2010.

Time: Immediately following the ASC open session beginning at 10:30 a.m.

Status: Closed.

Matters to be Considered: September 22, 2010 minutes—Closed Session. Preliminary discussion of State Compliance Reviews.

Dated: October 6, 2010.

James R. Park,

Executive Director.

[FR Doc. 2010–25661 Filed 10–12–10; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 28, 2010.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Vice President), 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. William Lee Hale and the William Lee Hale Trust, both of Bland, Virginia, acting in concert to retain control of 20.86% of the voting shares of First Regions Bancshares, Inc., Richlands, Virginia and thereby indirectly acquire voting shares of First Sentinel Bank, Richlands, Virginia.

Board of Governors of the Federal Reserve System, October 7, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–25679 Filed 10–12–10; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 9 a.m. (Eastern Time) October 18, 2010.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC 20005.

STATUS: Parts will be open to the public and parts will be closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the minutes of the September 20, 2010 Board Member Meeting.
2. Thrift Savings Plan Activity Report by the Executive Director.
   a. Monthly Participant Activity Report
   b. Monthly Investment Performance Review
   c. Legislative Report
3. Mid-Year Financial Audit Report.
4. Quarterly Vendor Financial Report.
5. Annual Budget Discussion.

Parts Closed to the Public

6. Confidential Vendor Information.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: October 8, 2010.

Thomas K. Emswiler,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. 2010–25854 Filed 10–8–10; 11:15 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Screening Framework Guidance for Providers of Synthetic Double-Stranded DNA

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

Authority: Public Health Service Act, 42 U.S.C. 241, Section 301; HSPD–10.

SUMMARY: To reduce the risk that individuals with ill intent may exploit the application of nucleic acid synthesis technology to obtain genetic material derived from or encoding Select Agents or Toxins and, as applicable, agents on the Export Administration Regulations' (EAR's) Commerce Control List (CCL), the U.S. Government has developed Guidance that provides a framework for screening synthetic double-stranded DNA (dsDNA). This document, the *Screening Framework Guidance for Providers of Synthetic Double-Stranded DNA* (the Guidance), sets forth recommended baseline standards for the gene and genome synthesis industry and other providers of synthetic dsDNA products regarding the screening of orders so that they are filled in compliance with current U.S. regulations and to encourage best practices in addressing biosecurity concerns associated with the potential misuse of their products to bypass existing regulatory controls. Following this Guidance is voluntary, though many specific recommendations serve to remind providers of their obligations under existing regulations. The framework includes customer screening and sequence screening, follow-up screening as necessary, and consultation with U.S. Government contacts, as needed.

A draft version of the Guidance was published as a **Federal Register** Notice (**Federal Register**, Vol. 74, No. 227, November 27, 2009, *Screening Framework Guidance for Synthetic Double-Stranded DNA Providers*) for public consideration and comment for a period of 60 days. Comments were reviewed and the Guidance was amended through a deliberative interagency process. The *Response to Public Comments* document, which precedes the final Guidance in the Supplementary Information section of this Notice, provides a general review of the decisions made to alter the Guidance in response to public comments. The Department of Health and Human Services (HHS) is issuing this document as the lead agency in a broad interagency process to draft the Guidance. The Guidance will be reviewed on a regular basis and revised, as necessary. For further details about the Guidance, to access public comments, and to provide ongoing feedback please refer to *http://www.phe.gov/preparedness/legal/guidance/syndna.*

DATES: The Guidance is effective on October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Jessica Tucker, PhD, Office of Policy and Planning, Office of the Assistant Secretary for Preparedness and Response, U.S. Department of Health

and Human Services, 330 C Street, SW., Room 3021K, Washington, DC 20201; phone: 202–260–0632; fax: 202–205–8674; Web site: *http://www.phe.gov/preparedness/legal/guidance/syndna.*

SUPPLEMENTARY INFORMATION:

Response to Public Comments on Draft Screening Framework Guidance for Synthetic Double-Stranded DNA Providers

I. Summary

The draft Guidance document was posted as a **Federal Register** Notice on November 27, 2009, for a period of 60 days for public comment. Twenty-two individual responses were received during this time period. The American Association for the Advancement of Science hosted a meeting to solicit the views of scientists, the public, and stakeholder communities on January 11, 2010 during the public comment period; the summary report from this meeting was submitted as a formal comment. Public comments are available at the following Web site: *http://www.phe.gov/preparedness/legal/guidance/syndna.*

An interagency working group of Federal Government representatives was established to review and consider the public comments that were received; these comments informed the changes made in the final version of the Guidance. In general, public comments were received in the areas of customer screening, customer concerns, follow-up screening, and sequence screening, though some comments fell outside these categories. This *Response to Public Comments* document provides a general review of the decisions made to alter the Guidance in response to public comments in these thematic areas.

A. Customer Screening and Customer Concerns

The draft Guidance includes recommendations for providers to screen against a number of different lists of proscribed entities; the lists to screen against differ depending on whether the order is placed by a domestic or international customer. Regarding these recommendations, several comments indicated a desire for a list that combines these proscribed entities (or alternatively, for a list of "approved" customers). No changes were made in response to these comments. The indicated lists exist under several different legal authorities and are maintained by different government bodies. In order to ensure that providers are referencing the most up-to-date versions of these lists, the U.S. Government continues to recommend that providers consult the primary sources.[a] A list of "approved" customers is not practicable as it would have to be updated very frequently, given the emergence of new legitimate customers on a regular basis, and it would require that companies share their customer lists. Customers and providers should be aware, however, that there are some software packages available that may address these requests for a centralized database of consolidated lists.

Several comments were received regarding the list of "red flags" outlined in Section V.A.2 of the Guidance. Some respondents requested more guidance regarding how to respond to "red flags" raised in the customer screening process. To address these concerns, the Guidance now clarifies that follow-up screening is recommended whenever any 'red flag' raises cause for concern. Additionally, several respondents requested the deletion of the following 'red flag' which appeared in the draft Guidance: "An unusually large order of DNA sequences, including larger than normal quantities, the same order placed several times, or several orders of the same sequence made in a short timeframe." Some customers and providers have indicated that such orders are a regular part of doing business and do not pose cause for concern. The U.S. Government agrees with these assessments. Accordingly, this 'red flag' has been deleted from the final Guidance text.

Several comments also indicated that "customers" are not always equivalent to "end users," and these respondents indicated that the Guidance should be clearer in advising providers to request information about the "end user." In response to these comments, the final Guidance has been amended to define "customers" and "principal users"; most initial customer screening is focused on customers, while follow-up screening addresses both customers and principal users. "Principal users" was chosen rather than "end users," to prevent confusion with the Department of Commerce definition of "end user" vis-à-vis export control.

A few comments reflected an interest in altering the Guidance to include a process for customers to contest denied orders. No changes were made in response to these comments. Because providers of synthetic double-stranded DNA (dsDNA) already have the right to deny an order for multiple reasons, including issues unrelated to biosecurity concerns, a process to contest denied orders is not offered in this Guidance. Finally, a couple of comments indicated that customers should be notified when their orders raised any cause for concern. In follow-up screening, it is recommended that customers be contacted for additional information about their order when there is cause for concern, so customers will be made aware if their order raises a 'red flag' for the provider. Therefore, no changes were made in response to these comments.

B. Follow-Up Screening

A few comments requested additional clarity or recommendations regarding vetting orders that are placed by an individual within a larger organization or entity. As a result, the follow-up screening section has now been amended to include examples of steps that might be taken to address orders from customers that are organizations or principal users that are affiliated with a larger organization. Additionally, because a couple of comments indicated that unaffiliated customers or principal users may not have a publication record, an additional option was provided for vetting unaffiliated customers/principal users wherein the customer/principal user may provide references that can verify their identity and the legitimacy of the order.

C. Sequence Screening

The topic that elicited the most public comments was sequence screening. The issues raised can generally be separated into the following themes: type/length of DNA to screen, sequences of concern, and sequence screening methodology.

1. Type/Length of DNA to Screen

In the draft Guidance, the U.S. Government recommended that orders of synthetic dsDNA 200 base pairs (bps) and longer should be subject to a screening framework. A number of public comments critiqued this recommendation, while a few comments supported this recommendation as reasonable. Some comments stated that 200 bps is too small to be practical for providers to implement, and recommended screening sequences 1 kilobase pair (kbp) and longer. A larger number of comments stated that a 200 bp limit is not scientifically justified, and argued that because most providers already screen all synthetic dsDNA orders, the 200 bp limit should be eliminated. Finally, a small number of comments recommended that oligonucleotides, in addition to dsDNA, should be included in a screening

[a] The Department of Commerce maintains consolidated links to many of these lists on the following Web site: *http://www.bis.doc.gov/complianceandenforcement/liststocheck.htm.* Additionally, the "EAR Marketplace" also includes consolidated links to lists: *https://bxa.ntis.gov/prohib.html.*

framework. The U.S. Government agrees that a 200 bp limit is not scientifically justified and that most providers already screen all dsDNA orders. Therefore, the recommendation to eliminate the 200 bp limit was adopted, and the final Guidance now recommends that all dsDNA orders should be screened. Because crafting "agents of concern" using dsDNA via *de novo* synthesis is still easier than by using single-stranded oligonucleotides, dsDNA is the focus of this screening framework. Additionally, it is likely that implementing a screening framework would pose a significant burden for providers of oligonucleotides. Nonetheless, given the rapid developments in DNA synthesis, the U.S. Government will continue to examine this issue and may make amendments accordingly.

2. "Sequences of Concern"

A number of comments noted that many sequences that are not unique to Select Agents and Toxins may pose a biosecurity risk, but that only those sequences unique to Select Agents and Toxins (and, for international orders, those sequences unique to items on the Commerce Control List (CCL)) are characterized as "sequences of concern" within the draft Guidance. Additionally, several comments noted that non-Select Agent homologs that are closely related to a Select Agent virulence factor or pathogenicity gene could potentially be ordered and then substituted for the Select Agent sequence. These comments variously recommended that the Guidance adopt a broader definition of "sequences of concern," establish a curated database of virulence genes and "other dangerous sequences," and/or adopt a "Top Homology" screening approach (*see* discussion of Screening Methodology below).

The U.S. Government recognizes that there are concerns that synthetic dsDNA sequences not unique to Select Agents or Toxins or CCL items may also pose a biosecurity concern. However, a robust screening framework that can be consistently implemented from provider to provider requires a clear set of criteria for identifying non-Select Agent or Toxin (or non-CCL) "sequences of concern." Due to the complexity of determining whether a specific sequence corresponds to a virulence factor or pathogenicity gene or otherwise poses a biosecurity risk, and because current knowledge of virulence and pathogenicity is limited, it is not currently possible to develop clear criteria that providers could use to robustly, comprehensively, and consistently identify non-Select Agent and Toxin or non-CCL "sequences of concern" based on virulence, pathogencity, or "other danger."

In addition, many pathogens and toxins not listed on the Select Agents and Toxins lists and the CCL could nearly as easily be obtained through other means. The Select Agents and Toxins lists and the CCL are well-defined lists of high consequence pathogens and toxins that have the potential to pose a severe threat to human, animal, or plant health. Finally, the agents on the Select Agents and Toxins lists and the CCL are most relevant for these purposes because a primary goal is to prevent access to agents otherwise subject to existing regulations.

Consequently, in the final Guidance, the U.S. Government continues to define "sequences of concern" as those sequences unique to Select Agents and Toxins (and those sequences unique to items on the CCL for international orders).

The sequence screening recommendations contained in this Guidance do not preclude the use of curated databases or the development of robust criteria that can consistently identify non-Select Agent and Toxin or non-CCL sequences that may pose a biosecurity risk. The U.S. Government encourages the continued development of such databases and criteria as additional screening tools that will improve with time as additional data becomes available. To advance knowledge in this arena, the National Academies is conducting a study that will identify the scientific advances necessary to predict biological function from nucleic acid sequences for oversight of Select Agents.

3. Screening Methodology

Many of the comments on screening methodology echoed issues raised in defining "sequences of concern." A number of comments criticized the "Best Match" approach to screening, arguing that it is easily circumvented and less robust than some current industry screening practices, and proposed either screening against a centralized, curated database of "sequences of concern" or adopting a "Top Homology" approach. The curated database approach is potentially very efficient, but requires the creation of databases identifying specific features such as known pathogenic sequences, virulence factors, house-keeping genes, etc. While the acquisition of such knowledge is progressing, at this time it is not possible to provide a robust database that would identify all or even most such sequences.

In the "Top Homology" approach, human screeners examine all sequences that exceed a certain threshold of homology to a dsDNA order to determine whether or not the matching sequences are derived from Select Agents and Toxins or from genes variously described in public comments as "genes that can be intentionally abused," "risk-associated" genes, or genes that "code for virulence or other threat characteristics." This approach shares some similarities with "Best Match," though the "Top Homology" approach considers all sequences that exceed a certain threshold and "Best Match" considers the top "hit." As with the customized database approach, a "Top Homology" approach could not be meaningfully implemented without a clear set of effective criteria for determining in a consistent and non-arbitrary manner when an order should trigger further customer review. However, the clear and effective criteria needed to make such an approach work are difficult to determine. The "Best Match" approach flags only the top "hit," which meets the stated goal of identifying sequences *unique* to Select Agents and Toxins (and, for international orders, sequences *unique* to items on the CCL).

As a result, the U.S. Government continues to recommend the use of the "Best Match" approach for screening. As stated above, the U.S. Government recognizes that there are concerns that synthetic dsDNA sequences not unique to Select Agents or Toxins or CCL items may also pose a biosecurity concern. The U.S. Government also recognizes that many providers have already instituted measures to address these concerns. The Guidance sets forth recommended baseline standards for providers regarding the screening of orders so they are filled in compliance with current U.S. regulations and to encourage best practices in addressing biosecurity concerns. As such, the ongoing development of best practices in this area is commendable and encouraged, particularly in light of the continued advances in DNA sequencing and synthesis technologies and the accelerated rate of sequence submissions to public databases such as GenBank.

Minor wording changes have been made to clarify or alter the technical details of the screening methodology, including language to address the high sequence similarity of some Select Agents and Toxins with some attenuated strains of Select Agents and Toxins that have been excluded from regulation. The U.S. Government recognizes that continued research and

development may lead to new and improved screening methodologies. As new methods are developed, U.S. guidance may change accordingly. In addition, the sequence screening methodology recommendations contained in this Guidance do not preclude the use of other screening approaches that providers assess to be equivalent or superior to the "Best Match" approach.

It is significant to note that sequence screening is simply a trigger for further customer screening and decision-making and does not by itself provide a basis for determining that filling an order is likely to pose a threat.

Beyond "Best Match" comments, some public comments requested that additional software screening recommendations be provided; for example, software packages, additional screening parameters, etc. It is not the policy of the U.S. Government to recommend specific, proprietary software packages. As a result, additional screening parameters are not provided as these details are specific to individual screening packages. Finally, the recommendation to "separately" screen international orders against both the Select Agents and Toxins lists and the CCL that appeared in the draft Guidance was altered to indicate that, for international orders, screening should cover the CCL in addition to the Select Agents and Toxins lists. Whether these screens are conducted separately or simultaneously is up to the provider.

D. Other Issues

In the draft Guidance, the screening framework indicated that customer screening should precede sequence screening. Several comments noted that the order of screening is irrelevant, as long as both customer and sequence screening occur for every order. The U.S. Government agrees with these comments, and has altered the final Guidance to remove the recommendation that screening occur in a particular order.

Finally, the recommendations in the draft Guidance were directed to "commercial" providers. Some comments indicated that the U.S. Government should recommend that all providers of synthetic dsDNA follow the recommended screening framework. The U.S. Government agrees with these comments. In order to effectively meet biosecurity goals, this recommendation was adopted, and the final Guidance is directed to all providers of synthetic dsDNA. Accordingly, when the final Guidance refers to "orders" of synthetic dsDNA, this term does not necessarily imply a commercial transaction.

The Guidance will be reviewed on a regular basis and revised, as necessary. The U.S. Government recognizes that as the technology, the industry, and the nature of the biosecurity risk change, the Guidance will have to be altered, accordingly.

Screening Framework Guidance for Providers of Synthetic Double-Stranded DNA

I. Summary

Synthetic biology, the developing interdisciplinary field that focuses on both the design and fabrication of novel biological components and systems as well as the re-design and fabrication of existing biological systems, is poised to become the next significant transforming technology for the life sciences and beyond. Synthetic biology is not constrained by the requirement of using existing genetic material and thus has great potential to be used to generate organisms, both currently existing and novel, including pathogens that could threaten public health, agriculture, plants, animals, the environment, or materiel. In the United States, many such pathogens, as well as certain toxins, are defined by specific existing regulations: Namely, the Select Agent Regulations (SAR) and, for international orders, the Export Administration Regulations (EAR). To reduce the risk that individuals with ill intent may exploit the application of nucleic acid synthesis technology to obtain genetic material derived from or encoding Select Agents or Toxins and, as applicable, agents on EAR's Commerce Control List (CCL), the U.S. Government has developed Guidance that provides a framework for screening synthetic double-stranded DNA (dsDNA). This Guidance sets forth recommended baseline standards for the gene and genome synthesis industry and other providers of synthetic dsDNA products regarding the screening of orders so that they are filled in compliance with current U.S. regulations and to encourage best practices in addressing biosecurity concerns associated with the potential misuse of their products to bypass existing regulatory controls.

Following this Guidance is voluntary, though many specific recommendations serve to remind providers of their obligations under existing regulations. Briefly, upon receiving an order for synthetic dsDNA, the U.S. Government recommends that providers perform *customer screening* and *sequence screening.* If either *customer screening* or *sequence screening* raises any concerns, providers should perform *follow-up screening.* If *follow-up screening* does not resolve concerns about the order or there is reason to believe a customer may intentionally or inadvertently violate U.S. laws, providers should contact designated entities within the U.S. Government for further information and assistance. This Guidance also provides recommendations regarding proper records retention protocols and screening software.

II. Introduction

Synthetic biology, unlike traditional recombinant DNA technology, is not constrained by the requirement for existing genetic material. This novel feature, along with rapid advances in DNA synthesis technology and the open availability of pathogen genome sequence data, has raised concerns in the scientific community, the dsDNA synthesis industry, the U.S. Government, and the general public that individuals with ill intent could exploit this technology for harmful purposes.

Within the U.S., microbial organisms and toxins that have been determined to have the potential to pose a severe threat to public health and safety, animal health, plant health, or animal or plant products are regulated through the SAR, administered by the Department of Health and Human Services/Centers for Disease Control and Prevention (HHS/CDC) and the U.S. Department of Agriculture/Animal and Plant Health Inspection Service (USDA/APHIS). The SAR sets forth requirements for the possession, use, and transfer of listed agents. Additionally, the EAR identifies agents and genomic sequences that require export licenses from the United States. The directed synthesis of polynucleotides could enable individuals not authorized to possess Select Agents (or, for international orders, those items listed on the CCL) to obtain them through transactions with providers of synthetic dsDNA. Such synthesis obviates the need for access to the naturally occurring agents or naturally occurring genetic material from these agents, thereby greatly expanding the potential availability of these agents.

The National Science Advisory Board for Biosecurity (NSABB) was charged with identifying the potential biosecurity concerns raised by the ability to synthesize Select Agents and providing advice on whether current U.S. Government policies and regulations adequately cover the *de novo* synthesis of Select Agents. Their report entitled *Addressing Biosecurity Concerns Related to the Synthesis of Select Agents* was formally transmitted to the U.S. Government in March 2007.

Federal Departments and Agencies with roles in life sciences research and/or security deliberated over the NSABB recommendations and identified a series of relevant policy actions targeted to promote risk management, while seeking to minimize negative impacts upon scientific progress or industrial development.

One of the formal policy actions charged Federal Departments and Agencies to identify, evaluate, and support the establishment of a screening infrastructure for use by providers and users of synthetic nucleic acids while engaging stakeholders in industry and academia. This document provides guidance to all providers of synthetic dsDNA regarding a screening framework for synthetically-derived dsDNA orders. Specific recommendations are **in bold type** throughout the text.

In the context of this Guidance, the following definitions are applicable:

"Provider" refers to the entity that synthesizes and distributes dsDNA. A provider is understood to be an entity synthesizing dsDNA for and distributing dsDNA to a customer, not a research scientist collaborating with a colleague.[1] "Customer" refers to the individual or organization that orders or requests synthetic dsDNA from a provider, and "Principal user" is the individual that receives and ultimately uses the ordered or requested dsDNA.

III. Goals of Guidance

The primary goal of the Guidance is to minimize the risk that unauthorized individuals or individuals with malicious intent will obtain "toxins and agents of concern" through the use of nucleic acid synthesis technologies, and to simultaneously minimize any negative impacts on the conduct of research and business operations. The Guidance was developed, in light of providers' existing protocols, to be implemented without unnecessary cost and to be globally extensible, both for U.S.-based providers operating abroad and for international providers.

Providers of synthetic dsDNA have two overriding responsibilities in this context:

- Providers should know to whom they are distributing a product.
- Providers should know if the product that they are synthesizing and distributing contains, in part or in whole, a "sequence of concern".

The Guidance outlines a screening framework that will assist providers in meeting both of these responsibilities. Though certain guidance provided in this document is necessarily framed by U.S. policy and regulations, the Guidance was composed so that fundamental goals, provider responsibilities, and the screening framework could be considered for application by the international community. In particular, though the Select Agents and Toxins and the CCL-listed items that are the primary focus of the Guidance may not be relevant for all countries, the sequence screening framework can be applied to other categories of agents and toxins that may be relevant for other regions.[2]

IV. Overview: Synthetic dsDNA Screening Framework

Providers should establish a comprehensive and integrated screening framework that includes both *customer screening* and *sequence screening,* as well as *follow-up screening* when *customer* and/or *sequence screening* raises a concern.

- *Customer Screening*—The purpose of *customer screening* is to establish the legitimacy of customers ordering synthetic dsDNA sequences. Providers should develop *customer screening* mechanisms to verify the legitimacy of a customer if the customer is an organization or confirm customer identity if the customer is an individual, to identify potential 'red flags,' and to conform to U.S. trade restrictions and export control regulations.
- *Sequence Screening*—The purpose of *sequence screening* is to identify when "sequences of concern" are ordered. Identification of a "sequence of concern" does not necessarily imply that the order itself is of concern. Rather, when a "sequence of concern" is ordered, further follow-up procedures should be used to determine if filling the order would raise concern. *Sequence screening* is recommended for all dsDNA orders.
- *Follow-up Screening*—The purpose of *follow-up screening* is to verify the legitimacy of customers both at the level of the customer and the principal user, to confirm that customers and principal users placing an order are acting within their authority, and to verify the legitimacy of the end-use.

Many customers will likely volunteer information about their identity or the sequence they are ordering. Providers should corroborate this information as part of their screening framework.

The following overall screening methodology is recommended:

1. Upon receiving an order for synthetic dsDNA, the U.S. Government recommends that providers conduct both *customer screening* and *sequence screening.* In *customer screening,* providers should review the information provided by the customer to verify their corporate or individual identity (as applicable), and to identify potential "red flags." Providers should also check customers against lists of denied or blocked persons and entities maintained by the Departments of Commerce, State, and Treasury.

In *sequence screening,* the U.S. Government recommends screening the ordered sequence to identify sequences derived from or encoding Select Agents and Toxins [3] and, for international customers, providers should also screen the ordered sequence to identify sequences derived from or encoding items on the CCL.[4] Scenarios of concern may include:

a. If an ordered dsDNA product can be classified as a Select Agent or Toxin based on the SAR [3 5] or is identified as a "sequence of concern" (defined in Section V.B.1.), additional customer verification steps should be performed and may in some cases be required.

b. If an ordered dsDNA product can be classified as a Select Agent or Toxin based on the SAR, [3 5] providers must be registered under the SAR to possess the dsDNA product. Transfer of the material from the provider must be done in accordance with APHIS and CDC procedures using the APHIS/CDC Form 2 to obtain authorization for and to document the transfer. Additional information on the transfer of Select Agents and Toxins is available at *http://www.selectagents.gov.*

c. Additional restrictions or licensing requirements may apply for

[1] Transfers of synthetic dsDNA should be evaluated for conformance with the SAR and EAR even when dealing with collaborating laboratories.

[2] The CCL items that are on the Australia Group Common Control Lists are relevant for all Australia Group members (*see http://www.australiagroup.net/en/index.html*).

[3] Please see *http://www.selectagents.gov* to access the most recent Select Agents and Toxins lists.

[4] Visit *http://www.access.gpo.gov/bis/ear/ear_data.html* to access the most recent Commerce Control List and review the Export Administration Regulations. The pathogens on the Commerce Control List are derived from the Select Agents and Toxins lists and the Australia Group's three pathogen control lists. As a member of the Australia Group, the United States has made a commitment to control exports of pathogens and their genetic elements on these lists.

[5] The CDC/APHIS national Select Agent registry Web site (*http://www.selectagents.gov*) contains a guidance document entitled "Applicability of the Select Agent Regulations to Issues of Synthetic Genomics" to assist providers in identifying synthetically derived Select Agent materials that would fall under the current regulations. The regulation of Select Agents and Toxins currently includes (1) nucleic acids that can produce infectious forms of any Select Agent viruses and (2) Recombinant nucleic acids that encode for the functional form(s) of any of the regulated toxins if the nucleic acids: (i) Can be expressed in vivo or in vitro, or (ii) Are in a vector or recombinant host genome and can be expressed in vivo or in vitro.

international orders if they include an item that is listed on the CCL.[6]

2. If *sequence screening* or *customer screening* raises any concerns, providers should pursue *follow-up screening* to verify the legitimacy of the customer, the principal user and the end-use of the ordered sequence. The goal of *follow-up screening* is to assist the provider in determining whether to fill the order. If the provider encounters a scenario where they would benefit from additional assistance in assessing an order, the provider is encouraged to seek advice from the relevant U.S. Government Departments and Agencies by contacting the nearest FBI Field Office Weapons of Mass Destruction (WMD) Coordinator. The WMD Coordinator can be reached by contacting the local FBI Field Office and asking to be connected to the FBI WMD Coordinator.

V. Details: Synthetic dsDNA Screening Framework

This section provides details of the steps involved in the recommended screening framework. These steps include *customer screening, sequence screening,* and *follow-up screening.*

A. Customer Screening

Customer screening encompasses two overarching responsibilities of providers: customer verification and identification of any "red flags."

1. Customer Verification

(a) **The U.S. Government recommends that, for every order, providers of synthetic dsDNA gather the following information to verify a customer's identity:**

- **Customer's full name and contact information**
- **Billing address and shipping address (if not the same)**
- **Customer's institutional or corporate affiliation (if applicable)**

(b) To ensure compliance with U.S. regulations concerning exports and sanctioned individuals and countries, **the U.S. Government recommends that, for every order, providers of synthetic dsDNA screen customers against several lists of proscribed entities (described in Section VI).**

Lack of affiliation with an institution or firm does not automatically indicate that a customer's order should be denied. **In such cases, the U.S. Government recommends conducting *follow-up screening*.**

Additionally, the U.S. Government recognizes that many providers have instituted measures and procedures to properly vet customers. The ongoing development of best practices in customer screening is commendable and encouraged, particularly as methodologies and resources become available to further assist with customer screening.

The U.S. Government recommends that companies retain records of customer orders for at least eight years based on the statute of limitations set forth by U.S. Code of Federal Crimes and Procedures, Title 18 Section 3286.[7]

The U.S. Government recommends archiving the following information: customer information (point-of-contact name, organization, address, and phone number), order sequence information (nucleotide sequences ordered, vector used), and order information (date placed and shipped, shipping address, and receiver name).

2. "Red Flags"

In reviewing the customer's order information, providers should take into account any circumstances in the proposed transaction that may indicate that the order may be intended for an inappropriate end-use, customer, or destination. These are known as "red flags."

The following is an illustrative list of indicators that can help in identifying suspicious orders of synthetic dsDNA:

- A customer whose identity is not clear, who appears evasive about their identity or affiliations, or whose information cannot be confirmed or verified (*e.g.,* addresses do not match, not a legitimate company, no Web site, cannot be located in trade directories, etc.).
- A customer who would not be expected in the course of their normal business to place such an order (*e.g.,* no connection to life science research, biotechnology or requirement for DNA synthesis services).
- A customer that requests unusual labeling or shipping procedures (*e.g.,* requests to misidentify the goods on the packaging, requests to deliver to a private address, or requests to change the customer's name after the order is placed, but before it is shipped).
- A customer proposing an unusual method of payment (*e.g.,* arranging payment in cash, personal credit card or through a non-bank third party) or offering to pay unusually favorable payment terms, such as a willingness to pay a higher than expected price.
- A customer that requests unusual confidentiality conditions regarding the order, particularly with respect to the final destination or the destruction of transaction records.

If a review of customer information reveals one or more "red flags," the U.S. Government recommends that providers conduct *follow-up screening*. If providers are unsure about whether to fill an order, they should contact the U.S. Government for further information (described in Section VII).

B. Sequence Screening

Sequence screening, which identifies whether a requested sequence is a "sequence of concern," is intended to serve as a trigger for further *follow-up screening* and does not by itself provide a basis for determining whether an order poses a risk. Providers should screen all orders of dsDNA.

1. Identifying "Sequences of Concern"

The U.S. Government recommends that dsDNA orders be screened for sequences derived from or encoding Select Agents and Toxins and, for foreign orders, for dsDNA derived from or encoding CCL-listed agents, toxins, or genetic elements. The U.S. Government chose the pathogens and toxins identified by HHS and USDA as "Select Agents and Toxins" as an appropriate list of "agents of concern" against which providers should screen orders since:

- The list is comprised of high consequence pathogens and toxins that have the potential to pose a severe threat to human, animal, or plant health or to animal or plant products
- Their possession, use, and transfer are managed through Federal regulations.

The Select Agents and Toxins lists are reviewed biennially and updated as needed to address biosecurity concerns.[8]

The U.S. Government reminds providers to screen for items on the CCL for international orders to ensure they are in compliance with the EAR. As a member of the Australia Group, the United States requires exporters through

[6] See Category 1, ECCN 1C353 of the CCL available at *http://www.bis.doc.gov.*

[7] The eight-year statute of limitations in Section 3286 applies to the offense defined by Title 18 Section 175(b) (possession of biological agents with no reasonable justification).

[8] A list of biological agents and toxins that affect humans has been promulgated by HHS/CDC (HHS Select Agents and Toxins, 42 CFR 73.3). A list of biological agents that affect animals and animal products has been promulgated by USDA/APHIS/Veterinary Services (USDA Select Agents and Toxins, 9 CFR 121.3). A list of agents that affect plants and plant products has been promulgated by USDA/APHIS/Plant Protection and Quarantine (USDA Select Agents and Toxins, 7 CFR 331.3). Additionally, HHS and USDA promulgated a list of "overlap" agents that affect both humans and animals (42 CFR 73.4 and 9 CFR 121.4).

the EAR to obtain export licenses for exports of reading-frame length nucleic acid sequences from pathogens listed under Export Control Classification Numbers (ECCNs) 1C351, 1C352, 1C353, and 1C354.[9] The EAR also requires exporters to obtain licenses for exports of reading-frame length nucleic acid sequences from pathogens on the Select Agent list not listed elsewhere on the CCL (ECCN 1C360). The EAR requirements specifically apply to genetic elements that encode toxins or sub-units of controlled toxins or genetic elements associated with pathogenicity of controlled microorganisms.

Therefore, for the purposes of this Guidance, Select Agents and Toxins are classified as "agents of concern," and "sequences of concern" are dsDNA sequences derived from or encoding Select Agents and Toxins. For international orders, "agents of concern" also include items on the EAR's CCL, and "sequences of concern" include those dsDNA sequences derived from or encoding those items. The U.S. Government may revisit these definitions in the future in light of experience with implementation of the Guidance and scientific and technological developments.

Because the CCL and the Select Agents and Toxins lists are not identical, it is recommended that providers ensure that international orders are screened to identify sequences derived from or encoding items on the Select Agents and Toxins lists and the CCL.

If a customer orders a synthetic dsDNA product that meets the definition of a Select Agent or Toxin,[3 5] domestic providers and customers must be in compliance with the CDC and APHIS Select Agent Regulations (42 CFR part 73, 7 CFR part 331, and 9 CFR part 121) in order to fill the order. A provider of such regulated dsDNA must be registered with CDC or APHIS in order to synthesize these materials. In addition, the provider must obtain an approved transfer form from CDC or APHIS and, for interstate transfers, a permit from APHIS (when applicable) in order to ship such products. International providers are advised that the receiving party must obtain an import permit from CDC and/or APHIS and an approved transfer form in order to receive such products. All providers are advised that receivers must hold a permit in order to receive through importation or interstate transport *any* product that meets the definition of "plant pest" (as defined at 7 CFR part 330), or any organism or its derivative which may introduce or disseminate any contagious or infectious disease of animals (9 CFR part 122).

The U.S. Government recognizes that there are concerns that synthetic dsDNA sequences not unique to Select Agents or Toxins or CCL items may also pose a biosecurity concern. The U.S. Government also recognizes that many providers have already instituted measures to address these concerns. The ongoing development of best practices in this area is commendable and encouraged, particularly in light of the continued advances in DNA sequencing and synthesis technologies and the accelerated rate of sequence submissions to public databases such as the National Institutes of Health's GenBank. However, due to the complexity of determining pathogenicity and because research in this area is ongoing and many such agents are not currently encompassed by regulations in the U.S., generating a comprehensive list of such agents to screen against is not currently feasible and hence is not provided in this Guidance.

2. Technical Goals and Recommendations for *Sequence Screening*

The U.S. Government developed the following list of specific technical goals and recommendations for a sequence screening methodology to ensure the reliable and accurate detection of synthetic dsDNA sequences derived from or encoding "sequences or agents of concern:"

The U.S. Government recommends that the sequence screening method be able to identify sequences *unique* to Select Agents and Toxins; to meet their obligations under existing regulations, for international orders, screening should also be able to identify sequences *unique* to CCL-listed agents, toxins, and genetic elements. Many DNA sequences encode genes that are required to maintain normal cellular physiology, otherwise known as "house-keeping genes." These "house-keeping genes" are highly conserved between pathogenic and non-pathogenic species. Screening methodologies that recognize highly conserved sequences such as "house-keeping genes" as positive "hits" for "sequences of concern" offer little biosecurity benefit and may impede the screening efforts. Such methodologies would produce a larger number of "hits" adding extra burden for screeners and potentially resulting in actual "sequences of concern" being overlooked. Additionally, such a system may hamper scientific research by falsely assigning sequences from closely related microbes as "sequences of concern."

The U.S. Government recommends that *sequence screening* be performed for both DNA strands and the resultant polypeptides derived from translations using the three alternative reading frames on each DNA strand (or six-frame translation). Each amino acid is encoded by a codon, a three nucleotide sequence of DNA. The correspondence from codon to amino acid is not unique. A given amino acid may be encoded by one to six distinct codons, which means that an amino acid polypeptide can be encoded by many different DNA sequences. Consequently, to determine whether a nucleotide sequence is derived from or encodes a "sequence or agent of concern," it is necessary to screen the six-frame translation polypeptides encoded by the DNA sequences in addition to the DNA sequences themselves.

The U.S. Government recommends that sequence alignment methods should enable the detection of any "sequences of concern" in a dsDNA order. The screening routine should be capable of local sequence alignments. A sequence screening system that assesses only the overall sequence length without any local checks may not detect a "sequence of concern" embedded within a larger, benign sequence. **In order to ensure that "sequences of concern" embedded within larger sequences are not overlooked, when screening orders longer than 200 base pairs (bps), providers should use screening techniques able to detect "sequences of concern" as short as 200 bps in length.** One method that providers may consider using involves comparing overlapping 200 bp nucleotide segments (nucleotides 1–200, 2–201, etc.) and corresponding 66 amino acid sequences, over the length of the dsDNA order, to a public sequence database such as GenBank using a sequence alignment tool.

3. Sequence Screening Methodology

The U.S. Government recommends a "Best Match" approach for *sequence screening* to determine whether a query sequence is derived from or encodes a Select Agent or Toxin or, for international orders, a sequence from a CCL-listed item. In this approach, the query sequence is aligned with a database of known sequences (such as GenBank) to identify the sequence with the greatest percent identity (the "Best

[9] Definitions of terms pertinent to exports can be found in Part 772 of the EAR. Part 734 (15 CFR chapter VII, subchapter C) describes the scope of the EAR and explains certain key terms and principles used in the EAR. The EAR provisions are subject to change, as they are regularly updated pursuant to multilateral agreements.

Match") over each 200 bp nucleic acid segment and corresponding amino acid sequence (or over the entire query sequence for those dsDNA orders shorter than 200 bps). Advantages of the "Best Match" approach include: It is automatically adaptable as new sequences are added to GenBank, it is adaptable to entirely synthetic genes, it can be accomplished using publicly available databases and tools, and it does not require provider discretion in setting similarity cut-off criteria.

In this approach, a query sequence is deemed to be a "hit," and the order should be investigated further by the provider in *follow-up screening,* if the nucleotide sequence, over any span of 200 or more nucleotides (or fewer than 200 nucleotides if the query sequence is shorter than 200 bps), or if any of the six derivable 66 amino acid open reading frame (ORF) translations, is more closely related to the sequence of a Select Agent or Toxin (or CCL item, when applicable) than to any other sequence in GenBank. Due to the high sequence similarity of some Select Agents and Toxins with some attenuated strains of Select Agents and Toxins that have been excluded from regulation,[10] sequences that are "Best Matches" to these excluded strains should still be considered a "hit" and the order should be subject to *follow-up screening.*

The "Best Match" approach is intended to minimize the number of sequence hits due to genes that are shared among both Select Agents or Toxins and non-Select Agents or Toxins (or for genes shared among CCL and non-CCL items, when applicable). Nonetheless, some harmless sequences in Select Agents or Toxins (or CCL items) or those that are routinely used in scientific research may result in a "hit" during this sequence screen. **The U.S. Government recommends that providers develop, maintain, and document protocols to determine if a sequence "hit" qualifies as a true "sequence of concern;" protocols that are no longer current should be maintained for at least eight years. Additionally, providers should keep screening records of all "hits" for at least eight years, even if the order was deemed acceptable.** In cases where the provider is unable to make the determination, advice can be sought from the relevant U.S. Government Departments and Agencies by contacting the nearest FBI Field Office Weapons of Mass Destruction Coordinator.

As noted in Section V.B.1 above, the U.S. Government recognizes that there are concerns that synthetic dsDNA sequences not unique to Select Agents or Toxins or CCL items may also pose a biosecurity concern. The U.S. Government also recognizes that many providers have already instituted measures to address these concerns. The ongoing development of best practices in this area is commendable and encouraged, particularly in light of the continued advances in DNA sequencing and synthesis technologies and the accelerated rate of sequence submissions to public databases such as GenBank.

To this end, providers may also choose to use other screening approaches that they assess to be equivalent or superior to the "Best Match" approach or that supplement it, including customized database approaches or approaches that evaluate the biological risk associated with non-Select Agent and Toxin sequences or, for international orders, sequences not associated with items on the CCL. These sequence screening recommendations do not preclude the use of curated databases of non-Select Agent or Toxin or non-CCL sequences for sequence screening. The U.S. Government encourages the development of such databases as an additional screening tool that will improve with time as additional data become available. Whatever sequence screening approach a provider adopts, the approach should meet the technical requirements outlined in Section V.B.2; additionally, the provider may choose to develop additional criteria to address non-Select Agent and Toxin or non-CCL sequences. If the provider determines that an ordered product poses a biosecurity risk, the provider should conduct *follow-up screening* accordingly. **The U.S. Government recommends that providers develop, maintain, and document their sequence screening protocols within company records; protocols that are no longer current should be maintained for at least eight years.**

The U.S. Government recognizes that continued research and development may lead to new and improved screening methodologies. As new methods are developed, U.S. Guidance may change accordingly.

C. Follow-Up Screening

The purpose of *follow-up screening* is to verify the legitimacy of the customer and the principal user, to confirm that the customer and principal user placing an order are acting within their authority, and to verify the legitimacy of the end-use.

***Follow-up screening* should be conducted if *customer screening* or *sequence screening* raises any concerns.** In any case where there are abnormal circumstances surrounding the order or the customer has ordered a "sequence of concern," **the U.S. Government recommends that providers ask for information about the customer and principal user, including the proposed end-use of the order, to help assess the legitimacy of their order.**[11] Sample end-uses of ordered synthetic dsDNA could include, but are not limited to:

- Identification of pathogenicity genes via marker-deletion mutagenesis.
- Training for threat agent detection.
- Production of organism for experimental research studies.

If not conducted previously, providers should gather the following information to verify a principal user's identity:

- **Principal user's full name and contact information.**
- **Billing address and shipping address (if not the same).**
- **Principal user's institutional or corporate affiliation (if applicable)**

If the customer or principal user is affiliated with an institution or firm, providers should contact the relevant biological safety officer, supervisor, lab director, director of research, or other relevant institutional representative in order to confirm the order, verify the customer's and principal user's identity, and verify the legitimacy of the order. If the customer or principal user is not affiliated with an institution or firm, providers should also conduct a literature review of the customer's or principal user's past research to verify his or her identity and the legitimacy of the order. If a literature review results in no publications, providers should request the unaffiliated customer or principal user provide references that can verify their identity and the legitimacy of the order. Additionally, the U.S. Government recommends that providers screen principal users against several lists of proscribed entities (described in Section VI), if this

[10] Information about attenuated strains that are not subject to the requirements of 42 CFR part 73, 9 CFR part 121, and 7 CFR part 331 can be accessed at *http://www.selectagents.gov/Exclusions.html.*

[11] As statutory precedent for requesting information about proposed end-use, providers and customers should be aware of U.S. Code Title 18 Section 175(b), which states in part that "Whosoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both."

step wasn't already performed as part of *customer screening*.

Providers may consider other steps that could be implemented as part of *follow-up screening.* For example, when the customer is an institution or firm, providers may consider the following steps: Check the customer's contact information against standard industry and institutional directories and listings; where the customer is known by reputation, check that the contact information matches its Web page; and/or confirm customer identity though government contacts. When the customer or principal user is affiliated with an institution or firm, providers may consider the following steps: Check whether the institution's or firm's usual paperwork has been used to place the order; check that shipments will be delivered to the institution's or firm's usual address; check that the customer's and principal user's supervisors have been copied on the order or can confirm the order; check that the order has been certified by the institution or firm; and/or check that the end-use has been reviewed and approved by the institutional biosafety committee or another relevant institutional committee.

It is important to note that a provider's decision to pursue *follow-up screening* does not necessarily imply that the U.S. Government will be contacted. However, in cases where *follow-up screening* cannot resolve concerns raised by *customer screening* or *sequence screening, or when providers are otherwise unsure about whether to fill an order,* the U.S. Government recommends that providers contact relevant agencies as described in Section VII. **Providers should retain records of any *follow-up screening*, even if the order was ultimately filled, for at least eight years.**

VI. Recommended Processes for Domestic and International Orders

This section outlines recommendations for specific screening processes for orders from domestic and international customers. The *customer screening, sequence screening,* and *follow-up screening* protocols that are referenced in this section are defined and described in Section V. Most of the information provided in this section serves as a reminder to providers to ensure they are meeting their legal obligations not to conduct unapproved business transactions with certain proscribed entities.

A. Domestic Orders

Once a domestic customer order is received, the provider should conduct both *customer screening* and *sequence screening,* in no particular order.

1. Customer Screening

In addition to verifying the customer identity and identifying any "red flags," providers should be aware of regulatory and statutory prohibitions for U.S. persons from dealing with certain foreign persons, entities and companies. **In order to avoid violating U.S. law, providers are encouraged to check the customer against several lists of proscribed entities before filling each order, including the:**

- Department of Treasury Office of Foreign Assets Control (OFAC) list of Specially Designated Nationals and Blocked Persons (SDN List).
- Department of State list of persons engaged in proliferation activities.
- Department of Commerce Denied Persons List (DPL).

According to U.S. regulations, no U.S. persons or entities may conduct business transactions with individuals or entities on the SDN List without a license from OFAC. This list is maintained by OFAC. OFAC only provides a license to deal with individuals on the SDN List in extremely limited circumstances.[12]

According to U.S. regulations, no U.S. persons or entities may conduct business transactions with individuals sanctioned by the Department of State for engaging in proliferation activities.[13]

Additionally, the U.S. Government recommends that providers screen customers against the DPL for domestic orders. This list includes those firms and individuals whose export privileges have been denied. While the Department of Commerce only regulates exports and therefore does not require that companies screen their domestic customers against the list, it recommends that they do so, to avoid unwittingly passing on sensitive technology or materials to U.S. residents known to be involved in proliferation activities.[4]

Because the updated lists are available online, **providers should ensure they are using the most recently updated lists when screening customers or principal users against these lists.**

If there are concerns after consulting these lists, providers should seek assistance from the U.S. Government as outlined in Section VII.

2. Sequence Screening

Providers should also conduct *sequence screening.* If a "sequence of concern" is identified, providers should conduct *follow-up screening.*

B. International Orders

Once an order from an international customer is received, the provider should conduct *customer screening* and *sequence screening,* in no particular order. Providers are reminded that genetic elements of the Select Agents and Toxins, microorganisms and toxins (proteins) are controlled for export. Exporters should make sure they are in compliance with the EAR when exporting genetic elements from CCL-listed items.[4]

1. Customer Screening

In addition to verifying the customer identity, identifying any "red flags,' and complying with the rules described for domestic orders, **all providers who export products from the United States to international customers must comply with the U.S. export laws, including the International Emergency Economic Powers Act,[14] the Trading with the Enemy Act,[15] and any implementing U.S. Government regulations or Presidential Executive orders. Certain transactions with sanctioned countries may be permitted but may require a license from OFAC and/or the Department of Commerce's Bureau of Industry and Security (BIS). Currently, most transactions involving Cuba, Iran, and Sudan are prohibited. In order to comply with the U.S. export laws and regulations, providers must first determine whether a given transaction with a sanctioned country is permitted, and, if not permitted without a license or approval, obtain any appropriate export licenses or other U.S. Government permissions prior to exporting any product to sanctioned countries.**

According to U.S. regulations, no U.S. persons or entities may conduct transactions with individuals or entities on the SDN List without a license from OFAC. This list is maintained by OFAC. OFAC only provides a license to deal with individuals on the SDN List in extremely limited circumstances.[12]

According to U.S. regulations, no U.S. persons or entities may conduct business transactions with individuals sanctioned by the Department of State

[12] Additional information, including the SDN List, is available at: *http://www.treas.gov/offices/enforcement/ofac/sdn/.*

[13] Announcements of such sanctions determinations are printed in the **Federal Register** and are maintained on the Department of State's Web site (*http://www.state.gov/t/isn/c15231.htm*).

[14] Visit *http://www.treas.gov/offices/enforcement/ofac/legal/statutes/ieepa.pdf* for additional information.

[15] Visit *http://www.treas.gov/offices/enforcement/ofac/legal/statutes/twea.pdf* for additional information.

for engaging in proliferation activities.[13]

Some products may not have a specific number on the CCL and so will be designated as EAR99 for export purposes. Items designated as EAR99 do not require a license unless they are exported to countries on the embargoed list, to banned individuals, or for prohibited end-uses. **As a result, before filling an international order for any dsDNA product that cannot be classified under an Export Control Classification Number (ECCN), providers must consult several lists of such individuals and organizations according to the EAR.**[4] If the customer appears on any of these lists, additional action is required and an export license may be necessary, depending on the list.[16] These lists include the DPL, the Entity List (EL),[17] and the Unverified List (UL).[18]

In addition to the SDN List and proliferation sanctions notifications, providers must not conduct business with persons and entities on the DPL based on the EAR.[4] The DPL includes parties that have been denied export and reexport privileges.

In accordance with the EAR, exports to persons or entities on the EL require an export license.[4 17] The EL contains a list of names of certain international persons—including businesses, research institutions, government and private organizations, individuals, and other types of legal persons—that are subject to specific license requirements for the export, reexport and/or transfer (in-country) of specified items. On an individual basis, the persons on the EL are subject to licensing requirements and policies supplemental to those found elsewhere in the EAR.

The presence of a party on the UL in a transaction is a "red flag" that should be resolved before proceeding with the transaction. [4 18] The UL includes names and countries of foreign persons who in the past were parties to a transaction with respect to which BIS could not conduct a pre-license check (PLC) or a post-shipment verification (PSV) for reasons outside of the U.S. Government's control. Additional "red flags" can be found in Supplement No. 3 to Part 732 of the EAR.

To avoid violating U.S. laws and regulations, providers should consult these lists whenever an international customer places an order. Because the updated lists are available online, **providers should ensure they are using the most recently updated lists when screening customers or principal users against these lists.**

Additionally, U.S. persons or entities may not export, reexport, or transfer (in-country) an item subject to the EAR without a license if, at the time of export, reexport, or transfer (in-country) the exporter knows that the item will be used in the design, development, production, stockpiling, or use of biological weapons in or by any country or destination, worldwide.

If any of these checks reveals cause for concern, the provider should proceed according to the details provided in Section VII.

If an order involves an export, according to the EAR, both the provider and customer are required to maintain documentary evidence of the transaction and are prohibited from misrepresenting or concealing material facts in licensing processes and all export control documents.[4]

If *customer screening* raises any concerns, providers should conduct *follow-up screening.*

2. Sequence Screening

Providers should also perform *sequence screening.* The U.S. Government reminds providers to conduct *sequence screening* on orders from international customers to determine whether they are governed by and to ensure compliance with the EAR.[4]

The U.S. Government recommends that, in addition to screening for sequences unique to Select Agents and Toxins, providers use a "Best Match" approach to identify sequences unique to pathogens, toxins, and genetic elements on the CCL when an order is placed by an international customer. If the ordered dsDNA is controlled under ECCN 1C353 (which covers genetic elements and genetically modified organisms) and is capable of encoding a protein, an export license is necessary for all international orders, according to the EAR.[4] Because the EAR's CCL and the Select Agents and Toxins lists are not identical, it is recommended that providers ensure that international orders are screened to identify sequences unique to Select Agents and Toxins and CCL-listed items.

If a "sequence of concern" is identified, providers should conduct *follow-up screening.*

VII. Contacting the U.S. Government

In cases where *follow-up screening* cannot resolve an issue raised by either *customer screening* or *sequence screening,* the U.S. Government recommends that providers contact one of the following agencies for further information:

Federal Bureau of Investigation (FBI)

If an order raises concerns based on *customer screening* or *sequence screening* and *follow-up screening* does not sufficiently verify the customer's identity, the principal user's identity, and the order's intended end-use, providers should contact the Weapons of Mass Destruction (WMD) Coordinator at their nearest FBI Field Office. Providers should also contact the WMD Coordinator if *follow-up screening* reveals that the customer or principal user has no legitimate need for the order.

CDC and APHIS Select Agent Regulatory Programs (Select Agent Programs)

If necessary, the CDC and APHIS Select Agent regulatory programs can be contacted through the national Select Agent Web site (*http://www.selectagents.gov*). The CDC program can be contacted directly via e-mail at *lrsat@cdc.gov* or by fax at 404–718–2096. The APHIS program can be contacted directly via e-mail at *Agricultural.Select.Agent.Program @aphis.usda.gov* or by fax at 301–734–3652.

Department of Commerce

If *sequence screening* reveals that an order from an international customer contains a Select Agent or "sequence of concern," providers should contact the nearest field office of the Department of Commerce's Office of Export Enforcement. Providers should also contact the Office of Export Enforcement if they receive an international order from a country currently subject to a U.S. trade embargo or a customer or principal user that is on one of the proscribed lists described in Section VI. The Department of Commerce will contact other U.S. Government agencies as necessary. The supervisory office is in Washington, DC and the phone number is 202–482–1208. Locations and contact information for all field offices are available at *http://www.bis.doc.gov/about/program offices.htm.* Assistance from an export counselor at the Department of Commerce is available by calling 202–482–4811.

[16] A general review of export control basics is available at *http://www.bis.doc.gov/licensing/exportingbasics.htm.*

[17] The Entity List is found in Supplement No. 4 to Part 744 of the EAR and can be found on the Web site *http://www.bis.doc.gov/entities/default.htm.* It is updated periodically.

[18] The Unverified List is found on the Web site *http://www.bis.doc.gov/enforcement/unverifiedlist/unverified_parties.html.* It is updated periodically.

Scenarios

If providers encounter one of the following scenarios and are unable to resolve issues raised by *customer screening* or *sequence screening,* they can contact one of the following U.S. Government agencies for assistance, using the contact information provided above:

1. Provider receives synthetic dsDNA order and a customer flag (suspicious customer) is identified in *customer screening. Follow-up screening* does not resolve the concerns. Recommend the provider contact the nearest FBI Field Office WMD Coordinator. FBI contacts other Departments and Agencies, as appropriate.

2. Provider receives a synthetic dsDNA order that is for a Select Agent or Toxin. Provider should refer to the Select Agent Regulations and follow necessary protocols. If necessary, the provider should contact the appropriate Select Agent Program (CDC or APHIS).

a. CDC or APHIS may contact FBIHQ as appropriate.

3. Provider receives a synthetic dsDNA order that incorporates a "sequence of concern;" *follow-up screening* reveals no legitimate purpose [11] for order or research requirement. Provider should contact the FBI WMD Coordinator. FBI contacts the CDC or APHIS as appropriate.

4. Provider receives an international synthetic dsDNA order incorporating a Select Agent or Toxin or a "sequence of concern" and DOC denies the export license. DOC contacts the FBI as appropriate.

5. Provider receives a synthetic dsDNA order from a customer that is listed on one or more restricted lists, which prohibits the fulfillment of the order. Provider should contact the FBI WMD Coordinator. FBI contacts DOC as appropriate.

VIII. Customer and Sequence Screening Software and Expertise

There are a variety software packages that can assist with the verification of customers (and principal users, if necessary) and screening against the necessary lists of proscribed entities. **Providers should be aware that commercially available software packages may not necessarily address all aspects of *customer screening* recommended by the U.S. Government.**

In addition to a sequence database and screening method, appropriate sequence screening software must be selected by providers of synthetic dsDNA. **The U.S. Government recommends that providers select a sequence screening software tool that utilizes a local sequence alignment technique;** a popular and publicly available suite of algorithms that meets this requirement is the BLAST family of tools, and other tools are available. BLAST is available for download for free at the National Center for Biotechnology Information Web site.[19] Similar tools are also freely or commercially available, or could be designed by the provider to meet their sequence screening needs. Specific criteria for the statistical significance of the hit (BLAST's e-values) or percent identity values will not be recommended because these details depend on the specific screening protocol. By utilizing the "Best Match" approach, the sequence with the greatest percent identity over each 66 amino acid or 200 bp fragment should be considered the "Best Match," regardless of the statistical significance or percent identity.

The U.S. Government recommends that providers of synthetic dsDNA have the necessary expertise in-house to perform the sequence screenings, analyze the results and conduct the appropriate follow-up research to evaluate the significance of dubious sequence matches. Such follow-up research could include comparing the ordered sequence to information found in the published literature about Select Agents and Toxins (or, when applicable, items on the CCL) or with information found in other databases of Select Agents and Toxins (or items on the CCL).

The U.S. Government recognizes that continued research and development on new and improved bioinformatics tools is desirable. As new methods are developed, U.S. Guidance may change accordingly.

IX. Records Retention

The U.S. Government recommends that providers:

- **Retain records of customer orders for at least eight years based on the statute of limitations set forth by U.S. Code of Federal Crimes and Procedures, Title 18 Section 3286.**[7]
- **Archive the following information: Customer information (point-of contact name, organization, address, and phone number), order sequence information (nucleotide sequences ordered, vector used), and order information (date placed and shipped, shipping address, and receiver name).**
- **Develop, maintain, and document protocols to determine if a sequence "hit" qualifies as a true "sequence of concern;" protocols that are no longer current should be maintained for at least eight years.**
- **Keep screening records of all "hits" for at least eight years, even if the order was deemed acceptable.**
- **Develop, maintain, and document their sequence screening protocols within company records; protocols that are no longer current should be maintained for at least eight years.**
- **Retain records of any *follow-up screening,* even if the order was ultimately filled, for at least eight years.**

If an order involves an export, according to the EAR, both the provider and customer are required to maintain documentary evidence of the transaction and are prohibited from misrepresenting or concealing material facts in licensing process and all export control documents.[4]

X. Appendix to *Screening Framework Guidance for Providers of Synthetic Double-Stranded DNA*

Summary of Recommendations

The field of synthetic genomics is evolving rapidly. This document is intended to provide guidance to providers of synthetic double-stranded DNA (dsDNA) regarding the screening of orders so that they are filled in compliance with current U.S. regulations and to encourage best practices in addressing biosecurity concerns associated with the potential misuse of their products to bypass existing regulatory controls. The U.S. Government recommends that all orders of synthetic dsDNA be subject to a screening framework that incorporates both *sequence screening* and *customer screening.*

Customer Screening

The U.S. Government recommends that, for every order, providers of synthetic dsDNA:

(1) Gather the following information to verify a customer's identity:

- Customer's full name and contact information.
- Billing address and shipping address (if not the same).
- Customer's institutional or corporate affiliation (if applicable).

(2) Screen customers against several lists of proscribed entities (described in Section VI).

In cases where the customer is not affiliated with an institution or firm, the U.S. Government recommends that the provider conduct *follow-up screening.*

If a review of customer information reveals one or more "red flags,' the U.S. Government recommends that providers conduct *follow-up screening.*

[19] *http://blast.ncbi.nlm.nih.gov/Blast.cgi.*

Sequence Screening

The U.S. Government recommends that:

• Ordered sequences be screened using a "Best Match" approach to identify sequences that are unique to Select Agents and Toxins.

• For international orders, ordered sequences be screened using a "Best Match" approach to identify sequences that are unique to pathogens, toxins, and genetic elements on the Commerce Control List (CCL), in addition to screening for sequences that are unique to Select Agents and Toxins.

• Sequence screening be performed for both DNA strands and the resultant polypeptides derived from translations using the three alternative reading frames on each DNA strand (or six-frame translation).

• Sequence alignment methods should enable the detection of any "sequences of concern" in a dsDNA order.

• In order to ensure that "sequences of concern" embedded within larger sequences are not overlooked, when screening orders longer than 200 bps, providers should use screening techniques able to detect "sequences of concern" as short as 200 bps in length.

If a customer orders a synthetic dsDNA product that meets the definition of a Select Agent or Toxin,[20] domestic providers and customers must be in compliance with the CDC and APHIS Select Agent Regulations (42 CFR part 73, 7 CFR part 331, and 9 CFR part 121) in order to fill the order.

Follow-Up Screening

Providers should conduct *follow-up screening* if *sequence screening* or *customer screening* raises any concerns. In *follow-up screening,* the U.S. Government recommends that providers ask for information about the customer and principal user, including the proposed end-use of the order, to help assess the legitimacy of their order. Providers should gather the following information to verify a principal user's identity:

• Principal user's full name and contact information.

• Billing address and shipping address (if not the same).

• Principal user's institutional or corporate affiliation (if applicable).

If the customer or principal user is associated with an institution or firm, providers should contact the relevant biological safety officer, supervisor, lab director, director of research, or other relevant institutional representative to confirm the order, verify the customer's and principal user's identity, and verify the legitimacy of the order. If the customer or principal user is not affiliated with an institution or firm, providers should also conduct a literature review of the customer's or principal user's past research to verify his or her identity and the legitimacy of the order. If a literature review results in no publications, providers should request the unaffiliated customer or principal user provide references that can verify their identity and the legitimacy of the order. Additionally, providers should screen principal users against several lists of proscribed entities (described in Section VI), if this step wasn't already performed as part of *customer screening.*

Domestic Orders

The U.S. Government reminds providers of the following:

• According to U.S. regulations, no U.S. persons or entities may conduct transactions with individuals or entities on the list of Specially Designated Nationals and Blocked Persons (SDN List) without a license from the Department of the Treasury Office of Foreign Assets Control (OFAC).[21]

• According to U.S. regulations, no U.S. persons or entities may conduct business transactions with individuals sanctioned by the Department of State for engaging in proliferation activities.[22]

The U.S. Government recommends that providers check domestic customers against the most recent Department of Commerce Denied Persons List (DPL).[23]

In order to avoid violating U.S. law, providers are encouraged to check the customer against the most recent versions of these lists of proscribed entities before filling each order.

International Orders

The U.S. Government reminds providers of the following:

• All providers who export products from the United States to international customers must comply with the U.S. export laws, including the International Emergency Economic Powers Act (IEEPA),[24] the Trading with the Enemy Act,[25] and any implementing U.S. Government regulations or Presidential Executive Orders. Certain transactions with sanctioned countries may be permitted, but most require a license from OFAC and/or the Department of Commerce's Bureau of Industry and Security (BIS). Most transactions involving Cuba, Iran, and Sudan are prohibited. In order to comply with the U.S. export laws and regulations, providers must first determine whether a given transaction with a sanctioned country is permitted, and, if not permitted without a license or approval, obtain any appropriate export licenses or other U.S. Government permissions prior to exporting any product to sanctioned countries.

• According to U.S. regulations, no U.S. persons or entities may conduct business transactions with individuals and entities on the SDN List without a license from OFAC.[21]

• According to U.S. regulations, no U.S. persons or entities may conduct business transactions with individuals sanctioned by the Department of State for engaging in proliferation activities.[22]

• The Export Administration Regulations (EAR) require that providers have an export license from BIS prior to exporting a synthetic nucleic acid that is controlled by an Export Control Classification Number (ECCN) and is capable of encoding a protein.[23]

• U.S. persons or entities may not export, reexport, or transfer (in-country) an item subject to the EAR without a license if, at the time of export, reexport, or transfer (in-country) the exporter knows that the item will be used in the design, development, production, stockpiling, or use of biological weapons in or by any country or destination, worldwide.[23]

• In accordance with the EAR, providers must not conduct business with persons and entities on the DPL.[23]

• In accordance with the EAR, exports to persons or entities on the Entity List require an export license and are subject to licensing requirements and policies in addition to those elsewhere in the EAR.[26]

[20] Please see *http://www.selectagents.gov* to access the most recent Select Agents and Toxins lists. The CDC/APHIS national Select Agent registry Web site (*http://www.selectagents.gov*) contains a guidance document entitled "Applicability of the Select Agent Regulations to Issues of Synthetic Genomics" to assist providers in identifying synthetically derived Select Agent materials that would fall under the current regulations.

[21] Additional information, including the SDN List, is available at: *http://www.treas.gov/offices/enforcement/ofac/sdn/.*

[22] Announcements of such sanctions determinations are printed in the **Federal Register** and are maintained on the Department of State's Web site (*http://www.state.gov/t/isn/c15231.htm*).

[23] Visit *http://www.access.gpo.gov/bis/ear/ear_data.html* to access the most recent Commerce Control List and review the Export Administration Regulations.

[24] Visit *http://www.treas.gov/offices/enforcement/ofac/legal/statutes/ieepa.pdf* for additional information.

[25] Visit *http://www.treas.gov/offices/enforcement/ofac/legal/statutes/twea.pdf* for additional information.

[26] The Entity List is found in Supplement No. 4 to Part 744 of the EAR and can be found on the website *http://www.bis.doc.gov/entities/default.htm.* It is updated periodically.

• The presence of a party on the UL in a transaction is a "red flag" that should be resolved before proceeding with the transaction.[27]

• In accordance with the EAR, if an order involves an export, both the provider and customer are required to maintain documentary evidence of the transaction and are prohibited from misrepresenting or concealing material facts in licensing processes and all export control documents.[23]

In order to avoid violating U.S. laws and regulations, providers are encouraged to check the international customer against the most recent versions of these lists of proscribed entities before filling each order.

The U.S. Government recommends that providers utilize a "Best Match" approach to identify sequences unique to pathogens, toxins, and genetic elements on the Commerce Control List for international orders, as well as identifying sequences unique to Select Agent and Toxins.

Contacting the U.S. Government

In cases where *follow-up screening* cannot resolve concerns raised by either *customer screening or sequence screening, or when providers are otherwise unsure about whether to fill an order,* the U.S. Government recommends that providers contact relevant agencies as described in Section VII.

Customer and Sequence Screening Software and Expertise

Providers should be aware that commercially available customer screening software packages may not necessarily address all aspects of *customer screening* recommended by the U.S. Government.

The U.S. Government recommends that:

• Providers select a sequence screening software tool that utilizes a local sequence alignment technique.

• Providers have the necessary expertise in-house to perform the sequence screenings, analyze the results, and conduct the appropriate follow-up research to evaluate the significance of dubious sequence matches.

Records Retention

The U.S. Government recommends that providers:

• Retain records of customer orders for at least eight years based on the statute of limitations set forth by U.S. Code of Federal Crimes and Procedures, Title 18 Section 3286.[28]

• Archive the following information: customer information (point-of-contact name, organization, address, and phone number), order sequence information (nucleotide sequences ordered, vector used), and order information (date placed and shipped, shipping address, and receiver name).

• Develop, maintain, and document protocols to determine if a sequence "hit" qualifies as a true "sequence of concern;" protocols that are no longer current should be maintained for at least eight years.

• Keep screening records of all "hits" for at least eight years, even if the order was deemed acceptable.

• Develop, maintain, and document their sequence screening protocols within company records; protocols that are no longer current should be maintained for at least eight years.

• Retain records of any *follow-up screening,* even if the order was ultimately filled, for at least eight years.

Dated: October 6, 2010.

Kathleen Sebelius,

Secretary, U.S. Department of Health and Human Services.

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[27] The Unverified List is found on the Web site *http://www.bis.doc.gov/enforcement/unverifiedlist/unverified_parties.html.* It is updated periodically.

[28] Section 3286 specifies that no person shall be prosecuted, tried, or punished for any noncapital offense involving certain violations unless the indictment is found or the information is instituted within 8 years after the offense was committed. This statute of limitations applies to Title 18 Section 175(b) (possession of biological agents with no reasonable justification).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–10–0666]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. Alternatively, to obtain a copy of the data collection plans and instrument, call 404–639–5960 and send comments to Carol E. Walker, Acting CDC Reports Clearance Officer, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30333; comments may also be sent by e-mail to *omb@cdc.gov.*

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarify of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

National Healthcare Safety Network (NHSN) (OMB No. 0920–0666 exp. 3/31/2012)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Healthcare Safety Network (NHSN) is a system designed to accumulate, exchange, and integrate relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and to promote healthcare safety. Specifically, the data is used to determine the magnitude of various healthcare-associated adverse events and trends in the rates of these events among patients and healthcare workers with similar risks. The data will be used to detect changes in the epidemiology of adverse events resulting from new and current medical therapies and changing risks. The NHSN consists of four components: Patient Safety, Healthcare Personnel Safety, Biovigilance, and eSurveillance. In general, the data reported under the Patient Safety Component protocols are used to (1) determine the magnitude of the healthcare-associated adverse events under study, trends in the rates of the events, in the distribution of pathogens, and in the adherence to prevention practices, and (2) to detect changes in the epidemiology of adverse events resulting from new medical therapies and changing patient risks. Additionally, reported data will be used to describe the epidemiology of antimicrobial use and resistance and to understand the relationship of antimicrobial therapy to this growing problem. Under the Healthcare Personnel Safety Component protocols, data on events—both positive and adverse—are used to determine (1) the magnitude of adverse events in

healthcare personnel and (2) compliance with immunization and sharps injuries safety guidelines. Under the Biovigilance Component, data on adverse reactions and incidents associated with blood transfusions are used to provide national estimates of adverse reactions and incidents.

This revision submission includes an amended Assurance of Confidentiality, which required an update of the Assurance of Confidentiality language on all forms included in the NHSN surveillance system. The scope of NHSN dialysis surveillance is being expanded to include all outpatient dialysis centers so that the existing Dialysis Annual Survey can be used to facilitate prevention objectives set forth in the HHS HAI tier 2 Action Plan and to assess national practices in all Medicare-certified dialysis centers if CMS re-establishes this survey method (as expected). The Patient Safety (PS) Component is being expanded to include long-term care facilities to facilitate HAI surveillance in this setting, for which no standardized reporting methodology or mechanism currently exists. Four new forms are proposed for this purpose. A new form is proposed to be added to the Healthcare Personnel Safety (HPS) Component to facilitate summary reporting of influenza vaccination in healthcare workers, which is anticipated to be required by CMS in the near future. In addition to this new form, the scope of the HPS Annual Facility Survey is being expanded to include all acute care facilities that would enroll if CMS does implement this requirement. The NHSN Antimicrobial Use and Resistance module is transitioning from manual web entry to electronic data upload only, which results in a significant decrease to the reporting burden for this package. Eight forms that are no longer necessary are being removed from this information data request. Finally, there are many updates, clarifications, and data collection revisions proposed in this submission.

The previously approved NHSN package included 54 individual data collection forms; the current revision request includes five new forms and the removal of eight forms from the package. If all proposed revisions are approved, the reporting burden will decrease by 1,258,119 hours, for a total estimated burden of 3,914,125 hours.

Healthcare institutions that participate in NHSN voluntarily report their data to CDC using a web browser based technology for data entry and data management. Data are collected by trained surveillance personnel using written standardized protocols. Participating institutions must have a computer capable of supporting an Internet service provider (ISP) and access to an ISP. There is no cost to respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Form number and name	Respondents	Number of respondents	Responses per respondent	Burden per response (in hours)	Total annual burden (in hours)
57.100: NHSN Registration Form	Registered Nurse (Infection Preventionist).	6,000	1	5/60	500
57.101: Facility Contact Information	Registered Nurse (Infection Preventionist).	6,000	1	10/60	1,000
57.103: Patient Safety Component—Annual Facility Survey.	Registered Nurse (Infection Preventionist).	6,000	1	40/60	4,000
57.104: Patient Safety Component—Outpatient Dialysis Center Practices Survey.	Registered Nurse (Infection Preventionist).	5,500	1	1	5,500
57.105: Group Contact Information	Registered Nurse (Infection Preventionist).	6,000	1	5/60	500
57.106: Patient Safety Monthly Reporting Plan	Registered Nurse (Infection Preventionist).	6,000	9	35/60	31,500
57.108: Primary Bloodstream Infection (BSI)	Registered Nurse (Infection Preventionist).	6,000	36	32/60	115,200
57.109: Dialysis Event	Staff RN	500	75	15/60	9,375
57.114: Urinary Tract Infection (UTI)	Registered Nurse (Infection Preventionist).	6,000	27	32/60	86,400
57.116: Denominators for Neonatal Intensive Care Unit (NICU).	Staff RN	6,000	9	4	216,000
57.117: Denominators for Specialty Care Area (SCA).	Staff RN	6,000	9	5	270,000
57.118: Denominators for Intensive Care Unit (ICU)/Other locations (not NICU or SCA).	Staff RN	6,000	18	5	540,000
57.119: Denominator for Outpatient Dialysis	Staff RN	500	12	5/60	500
57.120: Surgical Site Infection (SSI)	Registered Nurse (Infection Preventionist).	6,000	27	32/60	86,400
57.121: Denominator for Procedure	Staff RN	6,000	540	10/60	540,000
57.124: Paper form obsolete. See Electronic Data Upload Specification Tables.	Pharmacy Technician	6,000	12	5/60	6,000
57.125: Central Line Insertion Practices Adherence Monitoring.	Registered Nurse (Infection Preventionist).	6,000	100	5/60	50,000
57.126: MDRO or CDI Infection Form	Registered Nurse (Infection Preventionist).	6,000	72	32/60	230,400
57.127: MDRO and CDI Prevention Process and Outcome Measures Monthly Monitoring.	Registered Nurse (Infection Preventionist).	6,000	24	10/60	24,000
57.128: Laboratory-identified MDRO or CDI Event.	Registered Nurse (Infection Preventionist).	6,000	240	25/60	600,000
57.130: Denominators for Summary Vaccination Method.	Registered Nurse (Infection Preventionist).	6,000	5	14	420,000
57.133: Patient Vaccination	Registered Nurse (Infection Preventionist).	2,000	250	10/60	83,333

ESTIMATE OF ANNUALIZED BURDEN HOURS—Continued

Form number and name	Respondents	Number of respondents	Responses per respondent	Burden per response (in hours)	Total annual burden (in hours)
57.137: Patient Safety Component—Annual Facility Survey for LTCF.	Registered Nurse (Infection Preventionist).	250	1	25/60	104
57.138: Laboratory-identified MDRO or CDI Event for LTCF.	Registered Nurse (Infection Preventionist).	250	8	30/60	1,000
57.139: MDRO and CDI Prevention Process Measures Monthly Monitoring for LTCF.	Registered Nurse (Infection Preventionist).	250	3	7/60	88
57.140: Urinary Tract Infection (UTI) for LTCF	Registered Nurse (Infection Preventionist).	250	9	30/60	1,125
57.202: Healthcare Worker Survey	Occupational Health RN/Specialist.	600	100	10/60	10,000
57.203: Healthcare Personnel Safety Monthly Reporting Plan.	Occupational Health RN/Specialist.	600	9	10/60	900
57.204: Healthcare Worker Demographic Data	Occupational Health RN/Specialist.	600	200	20/60	40,000
57.205: Exposure to Blood/Body Fluids	Occupational Health RN/Specialist.	600	50	1	30,000
57.206: Healthcare Worker Prophylaxis/Treatment.	Occupational Health RN/Specialist.	600	10	15/60	1,500
57.207: Follow-Up Laboratory Testing	Laboratory Technician	600	100	15/60	15,000
57.208: Healthcare Worker Vaccination History	Occupational Health RN/Specialist.	600	300	10/60	30,000
57.210: Healthcare Worker Prophylaxis/Treatment—Influenza.	Occupational Health RN/Specialist.	600	50	10/60	5,000
57.211: Pre-season Survey on Influenza Vaccination Programs for Healthcare Personnel.	Occupational Health RN/Specialist.	600	1	10/60	100
57.212: Post-season Survey on Influenza Vaccination Programs for Healthcare Personnel.	Occupational Health RN/Specialist.	600	1	10/60	100
57.213: Healthcare Personnel Influenza Vaccination Monthly Summary.	Occupational Health RN/Specialist.	6,000	6	2	72,000
57.300: Hemovigilance Module Annual Survey	Medical/Clinical Laboratory Technologist.	500	1	2	1,000
57.301: Hemovigilance Module Monthly Reporting Plan.	Medical/Clinical Laboratory Technologist.	500	12	2/60	200
57.303: Hemovigilance Module Monthly Reporting Denominators.	Medical/Clinical Laboratory Technologist.	500	12	30/60	3,000
57.304: Hemovigilance Adverse Reaction	Medical/Clinical Laboratory Technologist.	500	120	10/60	10,000
57.305: Hemovigilance Incident	Medical/Clinical Laboratory Technologist.	500	72	10/60	6,000
Total Est Annual Burden Hours					3,914,125

Dated: October 5, 2010.

Carol E. Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–25695 Filed 10–12–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–11–0729]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of data collection plans and instruments, call 404–639–5960 or send comments to Carol E. Walker, Acting Reports Clearance Officer, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Customer Surveys Generic Clearance for the National Center for Health Statistics (0920–0729 exp. 6/30/2009)—Reinstatement—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on "the extent and nature of illness and disability of the population of the United States." This is a reinstatement request for a generic

approval from OMB to conduct customer surveys over the next three years.

As part of a comprehensive program, the National Center for Health Statistics (NCHS) plans to continue to assess its customers' satisfaction with the content, quality and relevance of the information it produces. NCHS will conduct voluntary customer surveys to assess strengths in agency products and services and to evaluate how well it addresses the emerging needs of its data users. Results of these surveys will be used in future planning initiatives.

The data will be collected using a combination of methodologies appropriate to each survey. These may include: Evaluation forms, mail surveys, focus groups, automated and electronic technology (*e.g.,* e-mail, Web-based surveys), and telephone surveys. Systematic surveys of several groups will be folded into the program. Among these are Federal customers and policy makers, state and local officials who rely on NCHS data, the broader educational, research, and public health community, and other data users. Respondents may include data users who register for and/or attend NCHS sponsored conferences; persons who access the NCHS Web site and the detailed data available through it; consultants; and others. Respondent data items may include (in broad categories) information regarding respondent's gender, age, occupation, affiliation, location, etc., to be used to characterize responses only. Other questions will attempt to obtain information that will characterize the respondents' familiarity with and use of NCHS data, their assessment of data content and usefulness, general satisfaction with available services and products, and suggestions for improvement of surveys, services and products.

The resulting information will be for NCHS internal use. There is no cost to respondents other than their time to participate in the survey.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of survey	Respondents	Number of respondents	Number of responses/ respondent	Average burden/response (in hours)	Total burden hours
Questionnaire for conference registrants/attendees.	Public/private researchers, Consultants, and others.	3,000	1	10/60	500
Focus groups	Public/private researchers, Consultants, and others.	240	1	1	240
Web-based	Public/private researchers, Consultants, and others.	3,600	1	10/60	600
Other customer surveys	Public/private researchers, Consultants, and others.	1,200	1	15/60	300
Total		8,040			1,640

Dated: October 6, 2010.

Carol E. Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–25694 Filed 10–12–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–11–0776]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Carol E. Walker, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Economic Analysis of the National Breast and Cervical Cancer Early Detection Program—Revision—Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC administers the National Breast and Cervical Cancer Early Detection Program (NBCCEDP), the largest organized cancer screening program in the United States. The NBCCEDP provides critical breast and cervical cancer screening services to uninsured and underserved low-income women in all 50 States, the District of Columbia, five U.S. territories, and 12 American Indian/Alaska Native organizations. The program provides breast and cervical cancer screening for eligible women who participate in the program as well as diagnostic procedures for women who have abnormal findings. During the past decade, the NBCCEDP has provided over 9.2 million breast and cervical cancer screening and diagnostic exams to over 3.7 million low-income women. Those who are diagnosed with cancer through the program are eligible for Medicaid coverage through the Breast and Cervical Cancer Prevention and Treatment Act passed by Congress in 2000.

In 2008, CDC received OMB approval to collect one year of activity-based economic cost data from NBCCEDP grantees. In 2009, CDC received OMB approval to collect two additional cycles of cost data for fiscal year 2009 (FY09)

and fiscal year 2010 (FY10) (OMB No. 0920–0776, exp. 03/31/2011). Respondents are the 68 programs participating in the NBCCEDP. Information is collected through a web-based Cost Assessment Tool (CAT) and includes: Staff and consultant salaries, screening costs, contracts and material costs, provider payments, in-kind contributions, administrative costs, allocation of funds and staff time devoted to specific program activities.

CDC requests OMB approval for a six-month extension of the current approval period in order to complete the third year of data collection. Based on our experience with previous data collection cycles, 20 grantees (30% of the total 68 grantees) will not be able to meet the current data collection deadline of 3/31/2011. These programs will complete their fiscal year (FY) closeout process in April or May 2011. As a result, these programs will not be prepared to submit data to CDC until their FY is complete and records have been reconciled. The requested six-month extension period will provide the time they need to complete their closeout process and conduct data quality checks before submitting information to CDC. The requested six-month extension will improve the quality and completeness of information used for planned data analysis, and ensure CDC's authority to receive late submissions.

The activity-based cost data will be used to evaluate grantees to ensure the most appropriate use of limited program resources in delivering program services such as screening, diagnostic services, case management and outreach. The detailed cost data will allow CDC to determine the costs of various program components, identify factors that impact average cost, perform cost-effectiveness analysis and budget impact analysis of the program, and allocate program resources more effectively and efficiently. The collection of economic cost information complements the measures of NBCCEDP effectiveness collected as Minimum Data Elements (0920–0571, exp. 11/30/2012).

In this Revision request, there are no proposed changes to the data collection instrument, data collection methodology, or the estimated burden per response. The only changes are a decrease in the estimated number of respondents (the number of late responders) and a six-month extension of the data collection period. All information is collected electronically. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of responses per respondent	Average burden (in hrs)	Total burden (in hrs)
NBCCEDP grantee	20	1	22	440

Dated: October 6, 2010.

Carol E. Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–25693 Filed 10–12–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Healthcare Integrity and Protection Data Bank for Final Adverse Information on Health Care Providers, Suppliers and Practitioners (45 CFR 61)—OMB No. 0915–0239—Revision

This is a request for revision and extension of OMB approval of the information collections contained in regulations found in 45 CFR Part 61 governing the Healthcare Integrity and Protection Data Bank (HIPDB) and the forms to be used in reporting information to and requesting information from the HIPDB cleared under OMB No. 0915–0239. An additional form entitled, "Instructions for Registering as an NPDB–HIPDB Self-Querier," has been included to meet identity proofing and e-authentication requirements stipulated in the *E–Authentication Guidance for Federal Agencies* (OMB M–04–04) and National Institutes of Standards and Technology's (NIST) Draft Special Publication 800–63–1, *Electronic Authentication Guidelines.* The burden estimate for self-queriers has been adjusted from the original OMB approval to reflect this new registration process. The HIPDB is authorized by section 1128E of the Social Security Act (hereinafter referred to as section 1128E), as added by section 221(a) of the Health Insurance Portability and Accountability Act of 1996. Section 1128E directs the Secretary of Health and Human Services (the Secretary) to establish a national health care fraud and abuse data collection program for the reporting and disclosing of certain final adverse actions (excluding settlements in which no findings of liability have been made) taken against health care providers, suppliers, or practitioners. It also directs the Secretary to maintain a database of final adverse actions taken against health care providers, suppliers, or practitioners. The regulations implementing section 1128E governing the operation of the HIPDB are codified at 45 CFR Part 61. The HIPDB became operational November 22, 1999.

Approval is requested to continue the following reporting data collection and disclosure requirements and the ensuing HIPDB forms along with the instructions. The recordkeeping, reporting, and disclosure requirements are specified in the regulations to implement the HIPDB. Numbers in the table may not add up exactly due to rounding. *Please note* the burden for Administrative Forms has been accounted for in the NPDB OMB clearance renewal submission.

The annual estimate of burden is as follows:

DISTRIBUTION OF BURDEN BY REGULATORY CITATION

Regulation citation	Number of respondents	Responses per respondent	Total responses	Hours per response (in minutes)	Total burden hours	Wage rate	Total cost
§ 61.6(a), (b) Errors & Omissions	188	4.4	817	15	204.25	$25	$5,106
§ 61.6 Revisions/Appeal Status	130	26.9	3,492	30	1,746	25	43,650
§ 61.7 Reporting By State Licensure Boards	305	80.8	24,640	45	18,480	25	462,000
§ 61.8 Reporting of State Criminal Convictions	45	56	2,518	45	1,888.5	43	81,205
§ 61.9 Reporting of Civil Judgments	4	2.5	10	45	7.5	43	322
§ 61.10(b) Reporting Exclusions from participation in Federal and State Health Care Programs	9	320.3	2,883	20	961.0	38	36,518
§ 61.11 Reporting of Adjudicated Actions/Decisions	92	17	1,562	45	1,171.5	43	50,375
§ 61.12 Request for Information: State and Federal Agencies	855	279.3	238,814	5	19,901.26	25	497,531.50
§ 61.12 Request for Information Health Plans	1,239	532.4	659,617	5	54,968.1	30	1,649,043
§ 61.12 Request for Information Health Care Providers, Suppliers and Practitioners (self-query)	50,416	1	50,416	55	46,214.7	45	2,079,661.50
§ 61.12(a)(4) Requests by Researchers for Aggregate Data	1	1	1	30	.5	38	19
§ 61.15 Dispute Report	300	1	300	5	25	45	1,125
§ 61.15 Add Report Statement	669	1	669	45	501.8	100	50,180
§ 61.15 Request for Secretarial Review	15	1	15	480	120	200	24,000
Administrative Forms	0	0	0	0	0	0	0
Total	54,268		985,754		146,190.11		4,980,736

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the "attention of the desk officer for HRSA."

Dated: October 6, 2010.

Wendy Ponton,

Director, Office of Management.

[FR Doc. 2010–25657 Filed 10–12–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0499]

Cooperative Agreement To Support Building Global Capacity for the Surveillance and Monitoring of Counterfeit/Falsified Medicines and Supply Chain Threats

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intention to accept and consider a single source application for award of a cooperative agreement to the World Health Organization (WHO) in support of building a global surveillance and monitoring system for combating counterfeit/falsified medicines and risks and breaches in the supply.

FOR FURTHER INFORMATION AND ADDITIONAL REQUIREMENTS CONTACT: *Program Contact:* Deborah Autor, or Ilisa Bernstein, Office of Compliance, Center for Drugs Evaluation and Research, Food and Drug Administration, White Oak Bldg. 51, rm. 5270, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–3100, *e-mail: Deborah.Autor@fda.hhs.gov* or *Ilisa.Bernstein@fda.hhs.gov.*

Management Contact: Katherine C. Bond, Office of the Commissioner,

White Oak Bldg. 32, rm. 3300, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–8318, FAX: 301–595–5058, *e-mail: Katherine.Bond@fda.hhs.gov.*

Grants Contact: Kimberly Pendleton, Division of Acquisition and Grants, Food and Drug Administration, 5630 Fishers Lane (HFA–500), Rm. 2104, Rockville, MD 20857, 301–827–9363, *FAX:* 301–827–7101, *e-mail: kimberly.pendleton@fda.hhs.gov.*

For more information on this funding opportunity announcement (FOA) and to obtain detailed requirements, please contact Kimberly Pendleton.

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

[RFA–FD–10–008]

[Catalog of Federal Domestic Assistance Number(s): 93.103 *https://www.cfda.gov*]

A. Background

The problem of counterfeit/falsified medicines was first addressed at the international level in 1985 at the Conference of Experts on the Rational Use of Drugs in Nairobi. The meeting recommended that the WHO and relevant stakeholders should study the feasibility of setting up a clearinghouse to collect data and to inform governments about the nature and extent of counterfeiting. This project represents a collaborative agreement between WHO and FDA in building global rapid alert surveillance/monitoring system(s) for combating counterfeit/falsified medicines and risks in the supply chain security that will assist in developing the global landscape and identifying areas of public health risk, including such challenges and threats as diversion, intentional adulteration, and the increasing complexity and reduced transparency of the supply chain due to globalization and limited regulatory capacity (such as in resource-constrained countries and/or countries where regulatory infrastructure lack robustness).

B. Research Objectives

- Support WHO technical cooperation with member states to attain better data and improve data sharing about the public health risks surrounding counterfeit/falsified medicine and supply chain security, through the development of surveillance and monitoring system(s) of counterfeit/falsified medicines and risks in supply chains and rapid alert system(s).
- This could include a phased-in approach for implementation, testing and assessment of a system, as well as subsequent refinements to the system based on assessments the WHO may consider relevant.
- Support WHO's work internally to identify and possibly adapt current global surveillance/monitoring systems that may exist in other programs (*e.g.,* those that the industry uses to collect information on counterfeit/falsified medicines), as well as other public health areas (*e.g.,* infectious diseases), and may be relevant in applicability to a surveillance/monitoring system for counterfeit/falsified medicines and supply chain integrity.
- Work with member states strategically over time to establish the necessary processes, protocols and commitment to collect and contribute data, share/exchange data routinely and consistently, and use the data emanating from a surveillance and monitoring system for counterfeit/falsified medicines and supply chain risks in support of national, sub-regional and global strategies and decision-making to prevent and address the incidence of counterfeit/falsified medicines and risks within supply chains in a sustainable and measurable way.
- Recognizing the importance of WHO's Anti-counterfeiting Programme, support WHO's contribution to the design, development and/or implementation of a global surveillance/monitoring system to better address the challenges and risks of counterfeit/falsified medicines and supply chain integrity.
- Promote development of consistent terminology around counterfeit/falsified medicines to enable comparable data collection and analyses; standardized methods for data collection; and a harmonized approach to data analyses in support of populating and utilizing a global surveillance/monitoring system for counterfeit/falsified medicines and supply chain security. Work with Member States for the implementation of these methods at the country-level to enable successful and sustainable implementation of a global surveillance/monitoring system to better address counterfeit/falsified medicines and supply chain integrity.
- Recognizing that active commitment, participation and engagement of national medicine regulatory authorities in any WHO surveillance/monitoring system for counterfeit/falsified drugs is essential, WHO will need to work with Member States as appropriate, for implementation, assessment, and refinement of a surveillance/monitoring system for counterfeit/falsified drugs and supply chain integrity that is of utility to national medicine regulatory authorities and other relevant national government stakeholders.
- Promote the development of peer-reviewed published articles on the growing complexities and threats addressing counterfeit/falsified medicines and supply chain security with a goal to initiate dialogue and expand the thinking among policymakers and experts on ways to address this public health threat with a forward-look toward sustainable solutions through global collaboration and evidence-based approaches.

C. Eligibility Information

The following organizations/institutions are eligible to apply: The World Health Organization.

II. Award Information/Funds Available

A. Award Amount

FDA anticipates providing one award of $960,500 (total costs including indirect costs) in fiscal year (FY) 2010 in support of this project. Subject to the availability of funds and successful performance, 3 additional years of support up to $847,500 per year will be available.

B. Length of Support

The support will be 1 year with the possibility of an additional three years of noncompetitive support. Continuation beyond the first year will be based on satisfactory performance during the preceding year, receipt of a non-competing continuation application and available Federal FY appropriations.

Dated: October 6, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–25687 Filed 10–12–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Award of a Single-Source Expansion Supplement to the Research Foundation of CUNY on Behalf of Hunter College School of Social Work

AGENCY: Children's Bureau, ACYF, ACF, HHS.

ACTION: Notice.

CFDA Number: 93.556.

Legislative Authority: Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. 110–351).

Amount of Award: $229,877.

Project Period: September 30, 2010 to September 29, 2011.

SUMMARY: The Administration for Children and Families (ACF), Children's Bureau (CB) announces the award of a single-source program expansion supplement to the Research Foundation of CUNY on behalf of Hunter College School of Social Work, New York, NY, to provide expanded technical assistance to address continuing challenges in the field as child welfare programs work to implement the requirements of new legislation. The Research Foundation of CUNY on behalf of Hunter College is the recipient of a cooperative agreement to act as the administrator for National Resource Center for Permanency and Family Connections (NRCPFC), which provides technical assistance services pursuant to the legislative authority of the Promoting Safe and Stable Families Amendments of the Social Security Act (42 U.S.C. 629e).

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. 110–351) provides for a discretionary matching grant program to implement projects in the areas of Kinship Navigator, Family Finding, Family Group Decision Making, and Residential Family Treatment. The law also added a new plan requirement at § 471(a)(29) that directs State foster care and adoption agencies (title IV–E agencies) to exercise due diligence to identify and notify all adult relatives of a child, within 30 days of the child's removal, of the relative's options to become a placement resource for the child. The supplemental funding will allow the NRCPFC to do the following:

1. Provide focused technical assistance to Family Connections grantees.
2. Engage States that did not receive discretionary grants in on-site consultation regarding effectively involving relatives in child welfare practice.
3. Proactively transfer the knowledge developed under the discretionary grant program to States to assist in meeting new plan requirements.

Under the proposed supplemental funding, the NRCPFC will increase technical assistance efforts to enhance the achievement of permanency by assisting agencies to better locate, notify and involve families and relatives in the engagement and planning process while maintaining awareness of confidentiality issues.

FOR FURTHER INFORMATION CONTACT: Jane Morgan, Children's Bureau, 1250 Maryland Avenue, SW., Washington, DC 20024. Telephone: 202–205–8807; E-mail: *jane.morgan@acf.hhs.gov.*

Dated: October 4, 2010.

Bryan Samuels,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2010–25713 Filed 10–12–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Award of a Single-Source Expansion Supplement to the Tribal Law and Policy Institute

AGENCY: Children's Bureau, ACYF, ACF, HHS.

ACTION: Notice.

CFDA Number: 93.658.

Legislative Authority: Section 476(c)(2)(iii) of the Social Security Act, as amended by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. 110–351).

Amount of Award: $400,000.

Project Period: September 30, 2010 to September 29, 2011.

SUMMARY: The Administration for Children and Families (ACF), Children's Bureau (CB) announces the award of a single-source expansion supplement to the Tribal Law and Policy Institute, West Hollywood, CA, to provide more intensive technical assistance to Tribes. The Tribal Law and Policy Institute administers the National Resource Center for Tribes under a cooperative agreement where technical assistance is provided to Tribes to assist in building organizational capacity so that Tribes may operate their own foster care programs under title IV–E of the Social Security Act. Under the agreement, Tribal Law and Policy Institute identifies promising practices in Tribal child welfare systems, identifies and effectively implements community and culturally based strategies and resources that strengthen Tribal child and family services.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (the Act) was amended in 2008 by the addition of § 479B, which allows Indian Tribes the option to apply for Federal funding to support the administration of their own foster care, adoption assistance, and guardianship assistance programs under title IV–E of the Social Security Act (SSA). The Act was also amended at § 476(c)(2)(iii) to allow Indian Tribes to receive one-time development grants to be used to offset the cost of developing a title IV–E plan to carry out the requirements of § 479B.

Supplemental funding will support Regional Roundtables and build Tribal capacity in the following areas:

1. Development of a presentation on the Social Security Act and title IV–E provisions that provide foster care and adoption service funds. The presentation will be developed to be responsive to the cultural issues and needs of the Tribal audience.
2. Training for Tribal caseworkers on title IV–E requirements in order to continue the eligibility and funding of IV–E eligible children. Caseworkers will be made aware of the provisions of Public Law 110–351 to insure that all appropriate services are provided to children in care.
3. Assistance in the development of training for appropriate foster care recruitment, and retention so that placement of title IV–E eligible children will be made with licensed foster/kin families. Training will emphasize the linkages between for Tribal leaders, child welfare and court staff in the licensing and maintaining of title I–VE eligibility when children are placed in foster care.

CONTACT FOR FURTHER INFORMATION: Jane Morgan, Children's Bureau, 1250 Maryland Avenue, SW., Washington, DC 20024. *Telephone:* 202–205–8807; *E-mail: jane.morgan@acf.hhs.gov.*

Dated: October 4, 2010.

Bryan Samuels,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2010–25709 Filed 10–12–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration For Children And Families

Award of a Single-Source Expansion Supplement to the Child Welfare League of America

AGENCY: ACF, ACYF, HHS.

ACTION: Notice.

CFDA Number: 93.599.

Legislative Authority: Section 477(g)(2) of the Social Security Act.

Amount of Award: $295,116.

Project Period: September 30, 2010 to September 29, 2011.

SUMMARY: The Administration for Children and Families (ACF), Children's Bureau (CB), announces the award of a single-source expansion supplement to the Child Welfare League of America, Arlington, VA, to support the provision of intensive technical assistance to States.

The Child Welfare League of America is a recipient of a cooperative agreement to administer the National Resource Center for Child Welfare Data and Technology (NRC–CWDT) in order to ensure continued support to States in the development of the National Youth in Transition Database. The National Youth in Transition Database will assist States, Tribes, and courts to develop, implement and/or improve effective case management information systems, or data collection systems, and to use data to manage child welfare programs in order to improve outcomes for children, youth, and families.

Section 477 of the Social Security Act authorizes the John H. Chafee Foster Care Independence Program (CFCIP) and the Chafee Education and Training Vouchers (ETV) program. It also requires the creation of a data collection and performance measurement system. The Federal regulation at 45 CFR 1356.80 establishes the National Youth in Transition Database (NYTD) implementing this provision. The NYTD regulation requires States to engage in two data collection activities: the collect of information on youth and the independent living services they receive that are paid for or provided by State agencies that administer the CFCIP and ETV programs and the collection of outcome information on certain youth in foster care. States must begin collecting NYTD data on October 1, 2010 and submit the first report period data to ACF by May 15, 2011.

The supplemental funding will allow the NRC–CWDT to meet the increased demand for NYTD onsite technical assistance and sponsor regional meetings without reducing requested technical assistance from courts and Tribes in the areas of data collection and exchange.

FOR FURTHER INFORMATION CONTACT: Gail Collins, Children's Bureau, 1250 Maryland Avenue, SW., Washington, DC 20024. *Telephone:* 202–205–8552; E-mail: *gail.collins@acf.hhs.gov.*

Dated: October 4, 2010.

Bryan Samuels,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2010–25715 Filed 10–12–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Award of a Single-Source Expansion Supplement to the University of Southern Maine, Muskie School of Public Service

AGENCY: Children's Bureau, ACYF, ACF, HHS.

ACTION: Notice.

CFDA Number: 93.658.

Legislative Authority: Section 476(c)(2)(iii) of the Social Security Act, as amended by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. 110–351).

Amount of Award: $200,000.

Project Period: September 30, 2010 to September 29, 2011.

SUMMARY: In order to provide more intensive technical assistance to Tribes, the Administration for Children and Families (ACF), Children's Bureau (CB) is awarding a single-source expansion supplement to the University of Southern Maine, Muskie School of Public Service, Portland, ME, to assist Tribes in building their capacity to operate their own foster care and adoption assistance agencies (title IV–E) program. The University of Southern Maine is a recipient of a cooperative agreement to administer the National Resource Center for Organizational Improvement, which is charged with building the organizational capacity of State, local, Tribal and other publicly supported child welfare agencies in order to improve the outcomes of child welfare activities and to achieve the Adoption and Safe Families Act of 1997 goals of safety, permanency and well-being of children and youth.

The supplemental funding will support Regional Roundtables and build Tribal capacity in the following areas:

1. An overview of the Social Security Act and title IV–E provisions that provide foster care and adoption service funds. This presentation will be developed to be responsive to the cultural issues and needs of the audience.

2. Training for Tribal caseworkers on title IV–E requirements in order to continue the eligibility and funding of IV–E eligible children. Workers must be aware of the provisions of Fostering Connections to assure that all appropriate services are provided to children in care.

3. Proper foster care recruitment, training and retention is needed because placement of title IV–E eligible children must be made with licensed foster/kin families. It is important for Tribal leaders, child welfare and court staff to understand the link between licensing and maintaining title IV–E eligibility when children are placed.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. 110–351) added § 479B to the Act, which allows Indian Tribes the option to receive Federal funding to support the administration of their own foster care, adoption assistance, and guardianship assistance programs under title IV–E of the Social Security Act (the Act). The law also amended the Act at § 476(c)(2)(iii) to allow Indian Tribes to receive one-time development grants to be used to offset the cost of developing a title IV–E plan to carry out the requirements of new § 479B of the Act.

As the designated National Resource Center for Organizational Improvement, the University of Southern Maine is qualified to provide training and technical assistance to Tribes because of their demonstrated commitment to meaningful stakeholder involvement by involving Tribes and other relevant stakeholders in program planning, implementation and evaluation and other systems change initiatives.

FOR FURTHER INFORMATION CONTACT: Jane Morgan, Children's Bureau, 1250 Maryland Avenue, SW., Washington, DC 20024. *Telephone:* 202–205–8807; E-mail: jane.morgan@acf.hhs.gov.

Dated: October 4, 2010.

Bryan Samuels,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2010–25719 Filed 10–12–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Award of a Single-Source Expansion Supplement to the University of Oklahoma, National Resource Center for Youth Services

AGENCY: Children's Bureau, ACYF, ACF, HHS.

ACTION: Notice.

CFDA Number: 93.674.

Legislative Authority: Promoting Safe and Stable Families Program, § 435(d), Title IV–B, subpart 2, of the Social Security Act [42 U.S.C. 629e].

Amount of Award: $103,685.

Project Period: September 30, 2010 to September 29, 2011.

SUMMARY: The Administration for Children and Families (ACF), Children's Bureau (CB) announces the award of a single-source expansion supplement to the University of Oklahoma, National Resource Center for Youth Services, Tulsa, OK, to support expanded technical assistance to address emerging technical assistance needs for States and Tribes as they seek to implement legislation and changing programs dedicated to former foster youth. The grantee is the recipient of a cooperative agreement to administer the National Resource Center for Youth Development (NRCYD). The grantee has been providing technical assistance services through a cooperative agreement since September 30, 2009, pursuant to the legislative authority of the Promoting Safe and Stable Families Program, Section 435(d), Title IV–B, subpart 2, of the Social Security Act [42 U.S.C. 629e].

In February 2008, the National Youth in Transition Database (NYTD) final regulation was promulgated. NYTD requires States to begin collecting information from youth in foster care and young adults formerly in foster care every six months, beginning October 1, 2010. State representatives continue to identify implementation of NYTD as a significant challenge, particularly since it will require State agencies to remain in contact with youth who may no longer be receiving services from the agency. The implementation of NYTD over the next four years will require the NRCYD to continue to provide additional technical assistance to States to implement this regulation effectively.

Additionally, many States see the implementation of NYTD as a method to engage youth and to strengthen youth involvement in services at the State and local level. This type of youth engagement work involves long-term systemic technical assistance. The expansion grant will allow the NRCYD to support these State initiatives over the long term.

Another significant development affecting the provision of services to youth and young adults was the passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110–351, signed into law October 7, 2008. Among other provisions, the law added a provision requiring States to develop a transition plan for all youth emancipating from foster care. The law also provides States and Tribes an option to receive Federal reimbursement under title IV–E of the Social Security Act to extend foster care to older youth until age 21. In addition, the law for the first time provides an opportunity for certain Indian Tribes to receive direct funding for independent living services and education and training vouchers under the Chafee Foster Care Independence Program. The supplement will allow the NRCYD to provide more intensive technical assistance and on-site consultation to States and Tribes to continue to assist them in implementing these provisions.

FOR FURTHER INFORMATION CONTACT: Jan Shafer, Children's Bureau, 1250 Maryland Avenue, SW., Washington, DC 20024. *Telephone:* 202–205–8172; *E-mail: jan.shafer@acf.hhs.gov.*

Dated: October 4, 2010.

Bryan Samuels,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2010–25711 Filed 10–12–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration For Children and Families

Award of a Single-Source Program Expansion Supplement to Chapel Hill Training Outreach Project, Inc.

AGENCY: Children's Bureau, ACYF, ACF, HHS.

ACTION: Notice.

CFDA Number: 93.505.

Legislative Authority: Social Security Act, Title V, Section 511 (42 U.S.C. 701), as amended by the Patient Protection and Affordable Care Act of 2010 (ACA) (Pub.L. 111–148).

Amount of Award: $90,000.

Project Period: September 30, 2010 to September 29, 2011.

SUMMARY: The Administration for Children and Families (ACF), Children's Bureau (CB) announces the award of a single-source program expansion supplement to Chapel Hill Training Outreach Project, Inc. in Chapel Hill, NC, the administrator of the FRIENDS National Resource Center for the Community-Based Child Abuse Prevention Program (NRCCBCAP), to support technical assistance and support for the implementation of the new home visiting program by ACF and Health Resources Services Administration (HRSA) grantees under the Maternal, Infant and Early Childhood Home Visiting program, authorized by the Patient Protection and Affordable Care Act.

Supplemental funding will assist in the initial planning and implementation of this new program. Award funds will be used to:

- Provide logistical support for outreach, planning, executing, and follow-up with prospective applicants, ACF and HRSA grantees, and other stakeholders;
- Support consultation time with various experts on evidence-based home visitation and implementation science;
- Convene meetings/calls/webinars with ACF and HRSA grantees and various experts and stakeholders including national program model developers;
- Provide staff time for support for general communication, other meetings, transition information to new TA contractor; and,
- Develop a temporary Web site or other electronic tools for the program that would make key information available in a timely and accessible manner.

FOR FURTHER INFORMATION CONTACT: Melissa Brodowski, Office on Child Abuse and Neglect, Children's Bureau, 1250 Maryland Ave., SW., #8111, Washington, DC 20024. *Telephone:* 202–206–2629, *E-mail: melissa.brodowski@acf.hhs.gov*.

Dated: October 4, 2010.

Bryan Samuels,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2010–25710 Filed 10–12–10; 8:45 am]

BILLING CODE 4184–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Award of a Single-Source Grant to Chapin Hall at the University of Chicago, Chicago, IL

AGENCY: Office of Planning, Research, and Evaluation, ACF, HHS.

ACTION: Notice.

CFDA Number: 93.595.

Statutory Authority: This award is authorized under section 1110 of the Social Security Act (42 U.S.C. 1310).

Amount of Award: $448,618.

Project Period: 9/30/2010 through 9/29/2011.

SUMMARY: The Administration for Children and Families (ACF), Office of Planning, Research and Evaluation (OPRE) announces the award of a single-source grant to Chapin Hall at the University of Chicago, Chicago, IL, to study the characteristics, dynamics, and context of the child-only Temporary Assistance for Needy Families (TANF) client population. Chapin Hall's application was received at ACF as an unsolicited proposal and underwent objective review on December 17, 2009,

where the following criteria were applied: Objectives and Need for Assistance, Facilities and Resources, Cost, and Relevance to ACF.

The Federal objective reviewers determined that the proposal evidenced a high technical quality, with well-qualified staff from respected institutions operating within a reasonable budget. Reviewers found that the proposal would add value compared to past research, through its focus on long-term child-only caseload dynamics, its use of State data, and its analysis of types of case that have not received as much attention in past research. The panel also pointed out that child-only cases are a high priority issue for ACF. The proposed project offers an updated and more detailed picture of the TANF child-only caseload, including the dynamics of client entry and exit from the caseload. It also provides a timely opportunity, in light of pending TANF reauthorization, to gather policy information about a vulnerable and important ACF client group.

OPRE will administer the grant in collaboration with HHS—Office of the Assistant Secretary for Planning and Evaluation (ASPE).

FOR FURTHER INFORMATION CONTACT: Matthew Borus, Office of Planning, Research and Evaluation, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447; Telephone: 202–401–5739; E-mail: *Matthew.Borus@acf.hhs.gov*.

Dated: October 6, 2010.

Naomi Goldstein,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 2010–25722 Filed 10–12–10; 8:45 am]

BILLING CODE 4184–07–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the Laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and April 30, 2010 (75 FR 22809).

A notice listing all currently certified Laboratories and Instrumented Initial Testing Facilities (IITF) is published in the **Federal Register** during the first week of each month. If any Laboratory/IITF's certification is suspended or revoked, the Laboratory/IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any Laboratory/IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The "Mandatory Guidelines for Federal Workplace Drug Testing Programs," as amended in the revisions listed above, requires strict standards that Laboratories and Instrumented Initial Testing Facilities (IITF) must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies.

To become certified, an applicant Laboratory/IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a Laboratory/IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification do not meet the minimum requirements described in the HHS Mandatory Guidelines. A Laboratory/IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated April 30, 2010 (75 FR 22809), the following Laboratories and Instrumented Initial Testing Facilities (IITF) meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc.)

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281,

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

DynaLIFE Dx*, 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876, (Formerly: Dynacare Kasper Medical Laboratories).

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ

08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.,).

Maxxam Analytics*, 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700, (Formerly: Maxxam Analytics Inc., NOVAMANN (Ontario), Inc.)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center,

Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 800–877–2520, (Formerly: SmithKline Beecham Clinical Laboratories).

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x1276.

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.

U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Dated: October 6, 2010.

Elaine Parry,

Director, Office of Management, Technology, and Operations, SAMHSA.

[FR Doc. 2010–25705 Filed 10–12–10; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council on Blood Stem Cell Transplantation; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Council on Blood Stem Cell Transplantation.

Date and Times: November 15, 2010, 8:30 a.m. to 4:30 p.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Status: The meeting will be open to the public.

Purpose: Pursuant to Public Law 109–129, 42 U.S.C. 274k (section 379 of the Public Health Service Act, as amended) the Advisory Council on Blood Stem Cell Transplantation (ACBSCT) advises the Secretary of HHS and the Administrator, HRSA, on matters related to the activities of the C.W. Bill Young Cell Transplantation Program (Program) and the National Cord Blood Inventory (NCBI) Program.

Agenda: The Council will hear reports from five ACBSCT Work Groups: Cord Blood Bank Collections, Realizing the Potential of Cord Blood, Scientific Factors Necessary to Define a Cord Blood Unit as High Quality, Cord Blood Thawing and Washing, and Access to Transplantation. The Council also will hear presentations and discussions on the following topics: Arizona reimbursement concerns for Medicaid beneficiaries, Myelodysplastic Syndromes (MDS) coverage, Medicare reimbursement for costs for allogeneic or autologous transplants, legislative reauthorization and appropriations bills, and Program performance measures. Agenda items are subject to change as priorities indicate.

After the presentations and Council discussions, members of the public will have an opportunity to provide comments. Because of the Council's full agenda and the timeframe in which to cover the agenda topics, public comment will be limited. All public comments will be included in the

record of the ACBSCT meeting. Meeting summary notes will be made available on the HRSA's Program Web site at *http://bloodcell.transplant.hrsa.gov/ABOUT/Advisory_Council/index.html.*

Those planning to attend are requested to register in advance. The draft meeting agenda and a registration form are available on the HRSA's Program Web site at *http://bloodcell.transplant.hrsa.gov/ABOUT/Advisory_Council/index.html.*

Registration also can be completed electronically at *http://www.acbsct.com* or submitted by facsimile to Lux Consulting Group, Inc., the logistical support contractor for the meeting, at fax number (301) 585–7741 *Attn:* Tristan Alexander. Individuals without access to the Internet who wish to register may call Tristan Alexander at (301) 585–1261.

FOR FURTHER INFORMATION CONTACT: Patricia Stroup, Executive Secretary, Healthcare Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 12C–06, Rockville, Maryland 20857; telephone (301) 443–1127.

Dated: October 6, 2010.

Wendy Ponton,

Director, Office of Management.

[FR Doc. 2010–25646 Filed 10–12–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention (CDC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the CDC announces the following meeting of the aforementioned committee:

Time and Date: 8:30 a.m.–3 p.m., October 28, 2010.

Place: CDC, 1600 Clifton Road, NE., Building 21, Rooms 1204 A/B, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people. The public is welcome to participate during the public comment period. The public comment period is tentatively scheduled for 2:30 to 2:45 p.m.

Purpose: The committee will provide advice to the CDC Director on strategic and other broad issues facing CDC.

Matters to be Discussed: The ACD, CDC will receive updates from the Global Workgroup; State, Tribal, Local and Territorial Workgroup; Surveillance and Epidemiology Workgroup; and the Policy Workgroup. The Ethics Subcommittee and National Biosurveillance Advisory Subcommittee will provide updates on their current activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Carmen Villar, M.S.W., Designated Federal Officer, ACD, CDC, 1600 Clifton Road, NE., M/S D–14, Atlanta, Georgia 30333. Telephone 404/639–7000. *E-mail: GHickman@cdc.gov.* The deadline for notification of attendance is October 25, 2010.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 5, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–25703 Filed 10–12–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Innovations in Technology for the Treatment of Diabetes: Clinical Development of the Artificial Pancreas (an Autonomous System); Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) and the National Institutes of Health (NIH) are announcing a public workshop entitled "Innovations in Technology for the Treatment of Diabetes: Clinical Development of the Artificial Pancreas (an Autonomous System)." The topics to be discussed are the current state of device systems for autonomous systems for the treatment of diabetes mellitus, the challenges in developing this expert system using existing technology, a discussion of the clinical expectations and success criteria for these systems, and a discussion of development plans for the transition of this device system toward an outpatient setting.

Date and Time: The public workshop will be held on November 10, 2010, from 8 a.m. to 5 p.m. Persons interested in attending this meeting must register by 5 p.m. on November 3, 2010.

Location: The meeting will be held at the Hilton Washington, DC North/Gaithersburg Hotel, 620 Perry Pkwy., Gaithersburg, MD 20877.

Contact: Charles Zimliki, Food and Drug Administration, Center for Devices and Radiological Health (CDRH), 10903 New Hampshire Ave., Bldg. 66, rm. 2556, Silver Spring, MD 20993–0002, 301–796–6297, *Fax:* 301–847–8109, *e-mail: Charles.Zimliki@fda.hhs.gov.*

Registration: Registration is free and will be on a first-come, first-served basis. To register for the public workshop, webinar or onsite attendance, please visit the following Web site: *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/ucm226251.htm* (select the appropriate meeting from the list). Please provide complete contact information for each attendee, including name, title, affiliation, address, e-mail, and telephone number. For those without Internet access, please call Victoria Wagman at 301–796–6581 to register. Registration requests should be received by 5 p.m. on November 3, 2010. Early registration is recommended because seating is limited and therefore FDA/NIH may limit the number of participants from each organization. If time and space permits, onsite registration on the day of the public meeting will be provided beginning at 7 a.m.

If you need special accommodations due to a disability, please contact Susan Monahan (e-mail: *Susan.Monahan@fda.hhs.gov*) at least 7 days in advance.

SUPPLEMENTARY INFORMATION:

I. Background

CDRH has undertaken an initiative to proactively facilitate medical device innovation to address unmet public health needs. As part of this initiative, CDRH with NIH have focused on the development of the artificial pancreas (or Autonomous System) for the treatment of diabetes mellitus. An artificial pancreas is a medical device that links a glucose monitor to an insulin infusion pump where the pump automatically takes action (using a control algorithm) based upon the glucose monitor reading. As control algorithms can vary significantly, there are a variety of artificial pancreas systems currently under development. These systems can range from low glucose suspend, to control-to-range, to control-to-target, to bihormonal control where each device has different purposes or intended uses for controlling blood sugars. In addition, most research in this area uses existing medical device technology, which might limit the performance and evaluation of these systems. Given these device limitations, preliminary research has focused on evaluating these systems in

a hospital-based environment, where the risks to the patient are minimized. CDRH and NIH seek feedback on ways to overcome obstacles in the development of an artificial pancreas and what might be considered reasonable clinical expectations for systems considering the available existing technology.

This public workshop is to seek input from a wide range of constituencies including but not be limited to industry, academia, patient/consumer advocacy groups, professional organizations, and other State and Federal bodies under aligned public health missions, to address the issues outlined in this notice. During the public workshop, there will be an open dialogue between Federal Government and experts from the private and public sectors regarding the topics described in this document. Workshop participants will not be expected to develop consensus recommendations, but rather to provide their perspectives on the clinical development of these device systems.

II. Issues for Discussion

The workshop will focus on three topics: (1) Technical considerations when developing a clinical study design; (2) expectations of the various artificial pancreas device systems; and (3) a discussion of the various development plans for the Artificial Pancreas System. The discussion of these general topics should not be limited by current statutes or regulations and will include, but not be limited to, discussion of the preceding questions.

III. Where can I find more information about this public workshop?

Background information on the public workshop, registration information, the agenda, and other relevant information will be posted, as it becomes available, on the Internet at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/ucm226251.htm.*

IV. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to Division of Freedom of Information (HFI–35), Office of Management Programs, Food and Drug Administration, 5600 Fishers Lane, Rm. 6–30, Rockville, MD 20857.

Dated: October 5, 2010.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2010–25600 Filed 10–12–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM): Workshop Series on Best Practices for Regulatory Safety Testing: Assessing the Potential for Chemically Induced Eye Injuries and Chemically Induced Allergic Contact Dermatitis (ACD)

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), Department of Health and Human Services.

ACTION: Announcement of a Workshop Series.

SUMMARY: NICEATM and the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) announce a planned series of workshops on "Best Practices for Regulatory Safety Testing." The first two workshops in this series, "Best Practices for Assessing the Potential for Chemically Induced Eye Injuries" and "Best Practices for Assessing the Potential for Chemically Induced Allergic Contact Dermatitis," are planned for January 19 and 20, 2011, respectively. These one-day workshops will help participants gain a practical understanding of the theory and application of available *in vitro* and *in vivo* alternative test methods that can be used to evaluate the hazard potential of chemicals and products while avoiding or minimizing animal use and animal pain and distress. Participants will learn the strengths and weaknesses of available alternative test methods, become familiar with the types of data they provide, and learn how to use these data in regulatory safety assessments. Workshop topics will be of particular interest to those involved in conducting safety tests for chemically induced eye injuries and/or chemically induced ACD, those responsible for reviewing and approving study protocols prior to testing, and regulators who are expected to review data generated by the tests. The workshops are free and open to the public with attendance limited only by the space available. Those interested may register for one or both workshops.

DATES: The workshop on "Assessing the Potential for Chemically Induced Eye Injuries" will be held on January 19, 2011. The workshop on "Assessing the Potential for Chemically Induced Allergic Contact Dermatitis" will be held on January 20, 2011. Sessions for both workshops will begin at 8:30 a.m. and end at approximately 5 p.m. Individuals who plan to attend either or both workshops are asked to register with NICEATM by January 6, 2011.

ADDRESSES: The workshops will be held at the William H. Natcher Conference Center, 45 Center Drive, NIH Campus, Bethesda, MD 20892. Persons needing special assistance in order to attend, such as sign language interpretation or other reasonable accommodation, should contact 919–541–2475 voice, 919–541–4644 TTY (text telephone), through the Federal TTY Relay System at 800–877–8339, or e-mail to *niehsoeeo@niehs.nih.gov.* Requests should be made at least 14 days before the event.

FOR FURTHER INFORMATION CONTACT: Correspondence should be sent by mail, fax, or e-mail to Dr. William S. Stokes, NICEATM Director, NIEHS, P.O. Box 12233, MD K2–16, Research Triangle Park, NC 27709, (phone) 919–541–2384, (fax) 919–541–0947, (e-mail) *niceatm@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

To protect workers and consumers, regulatory agencies require testing to determine if chemicals and products may cause illnesses or injuries. Each year, approximately 2 million eye injuries occur in the U.S., of which more than 40,000 result in permanent visual impairment. Data on consumer product-related eye injuries indicate that the most common products causing eye injuries in children under the age of 10 are household cleaning chemicals and other chemical products. ACD is also a significant concern because skin diseases, including ACD, constitute the second most common category of occupational disease. ACD frequently develops in workers and consumers exposed to skin sensitizing products and chemicals, results in lost workdays, and can significantly diminish quality of life.

To address these concerns, regulatory authorities require safety testing that can identify substances that may present these hazards. Tests for ocular and ACD hazards are two of the four most frequently conducted product safety

tests. Test results are used to determine appropriate labeling to warn consumers and workers of potential hazards and to communicate precautions that should be taken to avoid eye injury or development of ACD.

The U.S. Public Health Service Policy on Humane Care and Use of Laboratory Animals and the U.S. Department of Agriculture's Animal Welfare Act regulations [1] require that alternatives to procedures that can cause more than slight or momentary pain or distress to test animals must be considered and used where appropriate. Substantial progress has been made in recent years in the development, validation, and regulatory acceptance of alternative test methods that reduce, refine (decrease or eliminate pain and distress), or replace the use of animals for ocular safety assessments and ACD hazard testing. Investigators and Institutional Animal Care and Use Committee (IACUC) members need to be aware of currently available alternative methods so that they can be considered before animal study protocols are approved.

For ocular safety testing, ICCVAM has recommended the bovine corneal opacity and permeability, isolated chicken eye, and Cytosensor microphysiometer test methods for use in specific circumstances to identify ocular corrosives and severe irritants without the use of live animals. ICCVAM also recently recommended that pain management procedures should always be used whenever it is necessary to use rabbits for eye safety testing required by Federal regulatory agencies. The ICCVAM recommendations include a test method protocol that describes how to use topical anesthetics (similar to those used in human eye surgeries) and systemic analgesics prior to and after test substance administration in order to avoid or minimize animal pain and distress. The report also identifies specific clinical signs and lesions that, if observed during animal testing, can be used as humane endpoints to allow the investigator to end a study early in order to reduce or avoid potential animal pain and distress. Use of the ICCVAM-recommended ocular safety testing methods (available at *http://iccvam.niehs.nih.gov/methods/ocutox/ocutox.htm*) may reduce the number of animals required to identify substances with the potential to cause chemically induced eye injuries, and eliminate pain and distress when it is necessary to use animals for such testing.

To identify substances with the potential to cause ACD, U.S. Federal agencies have accepted ICCVAM recommendations on an updated murine local lymph node assay (LLNA) protocol that uses 20% fewer animals. Federal agencies also accepted ICCVAM recommendations on the use of a modified procedure called the reduced LLNA that uses 40% fewer animals than the updated 3-dose LLNA protocol. ICCVAM also recently recommended two modified versions of the LLNA that do not require radioactive reagents, allowing more institutions to take advantage of the reduction and refinement benefits afforded by the LLNA compared to traditional guinea pig methods. These nonradioactive methods will also eliminate the expense and environmental hazard associated with use and disposal of radioactive materials used in the traditional LLNA. ICCVAM-recommended ACD testing methods are available at *http://iccvam.niehs.nih.gov/methods/immunotox/immunotox.htm.*

While toxicologists recognize the usefulness and strengths of these new approaches, many are unfamiliar with the specific techniques. Before a new test method is implemented, the safety community must understand the method, as well as the manner in which agencies expect the method to be conducted and data interpreted. Users and regulatory agency staff need to become familiar with the technical procedures required to conduct a new method, and to understand the method's usefulness and limitations. Consequently, there is a need for in-depth training of individuals in the safety and regulatory community on the appropriate use of new tools for hazard, safety, and risk assessment.

These workshops provide opportunities for such training. They will bring together scientific experts from relevant stakeholder organizations to discuss available alternative test methods for assessing chemicals and products for their ocular and ACD hazard potential. The goal is to raise awareness of available alternatives that users should consider before using traditional animal methods to assess eye injury and ACD hazards. The workshops will also provide information about the usefulness and limitations of these test methods. Users can then determine whether the methods are appropriate for specific testing applications.

Who Should Attend

Scientists from industry, government, and academia who have an interest in learning more about alternative test methods that are available for assessing potential eye injury or ACD hazards are encouraged to participate. Topics discussed during these workshops will be of particular interest to those involved in conducting tests for ocular safety and ACD hazards (such as toxicologists and study directors), those responsible for reviewing study protocols prior to testing (such as chairpersons and members of IACUCs), and regulators who will review data generated by such tests. Those interested may choose to attend one or both workshops.

Workshop Program

The workshop on "Best Practices for Assessing the Potential for Chemically Induced Eye Injuries" will be held on January 19, 2011. The workshop on "Best Practices for Assessing the Potential for Chemically Induced Allergic Contact Dermatitis" will convene on January 20, 2011. Sessions are scheduled to run from 8:30 a.m. to 5 p.m. each day. The programs will begin with presentations on U.S. requirements for the consideration of available alternatives, current regulatory requirements for safety testing, and the acceptance status of alternative methods. The scientific development of the test methods will be described, and the validation status of the test methods will be discussed. Detailed presentations will then provide practical instruction on application of the test methods, including standard protocols and data interpretation. Workshop participants will also have an opportunity to apply knowledge gained from the program using case studies in breakout group discussion sessions.

Preliminary Workshop Agenda: Best Practices for Assessing the Potential for Chemically Induced Eye Injuries (January 19, 2011)

- Welcome, Introduction, and Public Health Impact of Chemically Induced Eye Injuries.
- Review of Alternative Test Methods and Integrated Strategies for Ocular Safety Assessments.
- Consideration and Use of Available Reduction, Refinement, and Replacement Alternative Test Methods: Study Director and IACUC Responsibilities.
- Current Guidelines for Ocular Safety Testing.
- Regulatory Agency Requirements and Acceptable Alternative Test Methods for Ocular Safety Assessments.
- ICCVAM Evaluation and Recommendations on Best Practices for Incorporating Pain Management and Humane Endpoints in Ocular Safety Testing.
- The Bovine Corneal Opacity and Permeability Test Method.

[1] 7 U.S.C. 2131–2159.

- The Isolated Chicken Eye Test Method.
- The Cytosensor Microphysiometer Test Method.
- Case Studies in Breakout Groups.
- New Models and Strategies in the Validation Pipeline for Ocular Safety Testing.
- Roundtable Discussion and Summary Question-and-Answer Session.
- Closing Comments.

Preliminary Workshop Agenda: Best Practices for Assessing the Potential for Chemically Induced Allergic Contact Dermatitis (January 20, 2011)

- Welcome, Introduction, and Public Health Impact of Chemically Induced ACD.
- Review of Alternative Test Methods and Integrated Strategies for ACD Hazard Assessments.
- Consideration and Use of Available Reduction, Refinement, and Replacement Alternative Test Methods: Study Director and IACUC Responsibilities.
- Current Guidelines for ACD Hazard Testing.
- Regulatory Agency Requirements and Acceptable Alternative Test Methods for ACD Hazard Assessments.
- The Reduced LLNA.
- The LLNA: Bromodeoxyuridine Enzyme-linked Immunosorbent Assay (BrdU–ELISA).
- The LLNA: Daicel Adenosine Triphosphate (DA).
- Application of Peptide Reactivity for Screening ACD Hazard Potential.
- Case Studies in Breakout Groups.
- New Models and Strategies in the Validation Pipeline for ACD Hazard Testing.
- Roundtable Discussion and Summary Question-and-Answer Session.
- Closing Comments.

Registration

Registration information, a tentative agenda for each workshop, and additional information for both workshops are available on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov/meetings/Implement-2011/ImplmtnWksp.htm*) and upon request from NICEATM (*see* **FOR FURTHER INFORMATION CONTACT**).

Background Information on ICCVAM and NICEATM

ICCVAM is an interagency committee composed of representatives from 15 U.S. Federal regulatory and research agencies that require, use, or generate toxicological and safety testing information for chemicals, products, and other substances. ICCVAM conducts technical evaluations of new, revised, and alternative methods with regulatory applicability, and promotes the scientific validation, regulatory acceptance, and national and international harmonization of toxicological and safety testing methods that more accurately assess the safety and health hazards of chemicals and products while reducing, refining (decreasing or eliminating pain and distress), or replacing animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*-2, 285*l*-5 [2000], available at *http://iccvam.niehs.nih.gov/docs/about_docs/PL106545.pdf*) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM.

NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and coordinates international validation studies of new and improved test methods. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods applicable to the needs of U.S. Federal agencies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods for validation studies as well as technical evaluations. Additional information about NICEATM and ICCVAM can be found on the NICEATM–ICCVAM Web site (*http://www.iccvam.niehs.nih.gov*).

Dated: October 1, 2010.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2010–25676 Filed 10–12–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning an ADFLO™ Respiration System

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of an Adflo™ Respiration System used in a welding environment. Based upon the facts presented, CBP has concluded in the final determination that Sweden is the country of origin of the Adflo™ Respiration System for purposes of U.S. government procurement.

DATES: The final determination was issued on October 6, 2010. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before November 12, 2010.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, Valuation and Special Programs Branch: (202) 325–0132.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on October 6, 2010, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of the Adflo™ Respiration System which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H112725, was issued at the request of 3M Company, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented and precedent from the Court of International Trade in *Uniden America Corporation* v. *United States,* 120. Supp. 2d. 1091, (Ct. Int'l Trade 2000), that a battery charger included with the Adflo™ System, lost its separate identity and became part of the system rendering Sweden the country of origin of the Adflo™ Respiration System for purposes of U.S. government procurement. With respect to a cloth bag enclosed with the Adflo™ respiration system, because it is a textile product, we indicated that its country of origin is to be determined in accordance with rules for the country of origin of textile products set forth in 19 U.S.C. 3592 and CBP Regulations at 19 CFR 102.21. Since we did not have enough information, we could not rule on the country of origin of the bag.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: October 6, 2010.

Sandra L. Bell,

Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

HQ H112725

October 6, 2010

MAR–02 OT:RR:CTF:VS H112725 RSD

CATEGORY: Marking

Mr. Matthew Fuller
Trade Compliance Department
3M Company
3M Center
Building 225–4S–18
St. Paul, Minnesota 55144–1000

RE: Final Determination U.S. Government Procurement, Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B Part 177, CBP Regulations; Country of Origin; Adflo™ Respiration System

Dear Mr. Fuller:

This is in response to a letter dated June 24, 2010, submitted by the law firm K&L Gates on behalf of the 3M Company requesting a final determination pursuant to subpart B Part 177, Customs and Border Protection ("CBP") Regulations (19 CFR § 177.21 et. seq.). CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government. A telephone conference was conducted on August 12, 2010, with you and your counsel to discuss this matter. We have also received a supplemental submission via email on September 7, 2010.

This final determination concerns the country of origin of the Adflo™ respirator system. We note that 3M Company is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

The product at issue is the 3M Adflo™ respiration system. It is a powered air purifying respirator used for respiratory protection in a welding environment. The Adflo™ respiration system utilizes a "stackable" configuration, meaning that the Adflo™ cartridge can be stacked onto a high-efficiency particle filter for additional protection against organic, sulfur dioxide, chlorine, and hydrogen chloride vapors. The system's main components consist of a helmet and a powered blower unit. The powered blower unit delivers purified air into the helmet for protection of the user against contaminants encountered by the user in a welding environment. The helmet provides the primary protection for the user's head and eyes via the inclusion of an auto darkening lens which is sold separately.

You state that the 3M Adflo™ respiration system is comprised of the following components: 1) HWR 9000 FV Helmet SW Assembly Complete, 2) ADFLO™ Turbo Subassembly with its particle filter indicator, 3) AF Battery, 4) ADFLO™ Leather Belt, 5) ADFLO™ Rubber Breath tube, 6) AF Air flow indicator. All these components are stated to be manufactured in Sweden. Sometimes the helmet is equipped with a lens. There are two other minor components included in the system, an AF Battery Charger and a Gas Filter, which are made in Germany. It is our understanding that the gas filter is installed into the Adflo™ respiration system in Sweden. In addition, a cloth carrying bag stated to be made in the United States will be included with the respiration system as a courtesy item. The cloth bag serves no function to the use of the product other than to store and carry the product when it is not in use. During the telephone conference, it was indicated that the cloth bag may be eventually sourced from other countries, such as China.

All components are packaged at 3M's Valley, Nebraska facility. The system is not fully assembled when it is shipped to the United States. Rather, all the components are packaged together and the final minor assembly is performed by the customer (e.g., the customer in the United States attaches the Adflo™ Rubber Breath tube to the helmet and the powered Adflo™ Turbo (blower) unit). You indicate that the Swedish components account for 86.2 percent of the value of the Adflo™ respiration system when it sold without the lens and 87.8–88.1 percent of its value when it is sold with a lens. The German origin battery charger accounts for 12.9 percent (without a lens) or 11.2–11.4 percent (with a lens) of the value of the Adflo™ respiration system. The remaining 0.87 percent (without a lens) or 0.75–0.77 percent (with a lens) of the value of the Adflo™ respiration system is attributable to the U.S. component, which is the cloth bag.

ISSUE:

What is the country of origin of the Adflo™ Respiration System for purposes of government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 C.F.R. § 177.21 *et seq.,* which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. *See* 19 CFR § 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 CFR § 25.403(c)(1).

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 C.F.R. § 177.22(a).

A substantial transformation occurs when an article emerges from a process with a new name, character, or use different from that possessed by the article prior to processing. *See Texas Instruments, Inc. v. United States,* 69 CCPA 152, 681 F.2d 778 (1982). In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States,* 6 Ct. Int'l Trade 204, 573 F. Supp. 1149 (1983), *aff'd,* 741 F.2d 1368 (Fed. Cir. 1984).

Initially, we note that only three of the components of the Adflo™ respiration system are not made in Sweden, a battery charger and a gas filter which are made in Germany, and a cloth carrying bag made in the United States. Because the gas filter will be permanently installed in Sweden to become a part of the Adflo™ respiration system, we find that the gas filter will lose its separate identity and be substantially transformed in Sweden.

In contrast, we note that no processing is performed on the battery charger and the cloth bag other than packaging them together with the other components of the Adflo™ respiration system. CBP will not usually consider a simple packaging operation to result in a substantial transformation of an article. *See* Headquarters Ruling (HQ) 559287 dated December 16, 1995. Nonetheless in *Uniden America Corporation v. United States,* 120. Supp. 2d. 1091, (Ct. Int'l Trade 2000), the Court of International of Trade (CIT) considered the assembly of a cordless telephone and the installation of their detachable A/C (alternating current) adapters. The CIT applied an "essence test" and found that the "[t]he essence of the telephone is housed in the base and the handset. The court noted that consumers do not buy the article because of the specific function of the A/C adapter, but rather because of what the completed handset and base provide: communication over telephone wires. The court in *Uniden* found that the detachable A/C adapter was substantially transformed pursuant to the Generalized System of Preference (GSP) when installed into the cordless telephones. The court noted that the substantial transformation test is to be applied to the product as a whole and not to each of its detachable components. Consequently, the court found that the A/C adapter was a part of the cordless phone and that it had a new character, use, and name.

CBP has applied the CIT's analysis in *Uniden* to determine whether minor components when combined with a larger and a complex system would lose their separate identities to become part of that larger system. For example, in HQ H100055

dated May 28, 2010, we ruled on the country of origin of a lift unit for an overhead patient lift system. Among the issues that we considered was whether a battery charger, when inserted into the hand control unit inside the lift unit, was substantially transformed. Relying on the *Uniden* decision, we noted that the substantial transformation test should be applied to the product as a whole and not to each of the parts. We determined that the lift unit conveyed the essential character to the system and because the detachable hand control and the battery charger were parts of that system, they were substantially transformed when attached to the lift unit. Thus, we held that the country of origin of the hand control unit and battery charger when packaged with the lift unit was Sweden.

In H089762 dated June 2, 2010, CBP determined that component parts and subassemblies that were used to produce a hand-held mobile computer were substantially transformed for government procurement purposes in Canada as a result of a complex assembly and installation of Canadian software programming in Canada. Included in the hand-held computer was a stylus and stylus holder from China. Although the stylus was merely included with the hand held computer and not permanently attached to it, our analysis did not find that the stylus and stylus holder kept their separate identities. Instead, the ruling only addressed the question of what was the country of origin of the whole hand-held computer system. We determined that Canada was the country of origin of the hand-held computer system, and thus those minor components such as the stylus and stylus holder were accepted as parts of that whole system. Thus, for country of origin purposes in a government procurement context, they lost their separate identity.

In this instance, we believe that inclusion of the battery charger does not alter the essential character of the Adflo™ respiration system which is designed to provide respiratory protection in a welding environment. The battery charger is a very minor component when compared to the complexity of the Adflo™ respiration system. Consistent with the CIT's decision in *Uniden* and our decisions in HQ H100055 and HQ H089762, we find that the battery charger will lose its separate identity and become a part of the larger and more complex Adflo™ respiration system, when it is included with the system to be sold in the United States. Consequently, the country of origin of the Adflo™ respiration system is Sweden, which will be unaffected by the inclusion of the battery charger.

However, the situation is different with respect to the cloth bag because it is a textile product, and there are special rules for determining the country of origin of textile products. The rules of origin for textile products for purposes of the customs laws and the administration of quantitative restrictions are set forth in 19 U.S.C. § 3592. These provisions are implemented in CBP Regulations at 19 C.F.R. § 102.21. At this point, we do not have enough information to rule on the country of origin of the cloth bag when it is included with the Adflo™ system. In this instance, however, you state that the bag is of U.S. origin. In the event that the country of origin of the bag changes to a country other than the U.S., we will require further description of the bag, including its classification and a sample in order for us to provide a decision.

HOLDING:

Based on the information provided, the German filter is substantially transformed when it is installed in Sweden into the Adflo™ respiration system. The battery charger loses its separate identity when it is included with the Adflo™ respiration system and since it is a minor component it also becomes a part of the Adflo™ respiration system. Therefore, the imported country of origin of Adflo™ respiration system for purposes of U.S. government procurement is Sweden. The country of origin of the cloth bag will be governed by the rules of origin for textiles set forth in 19 C.F.R. § 102.21.

Notice of this final determination will be given in the Federal Register, as required by 19 CFR § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR § 177.31 that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR § 177.30, any party-at-interest may, within 30 days after publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell
Executive Director
Office of Regulations and Rulings
Office of International Trade

[FR Doc. 2010–25666 Filed 10–12–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5300–FA–13]

Announcement of Funding Awards for the Self-Help Homeownership Opportunity Program (SHOP) for Fiscal Year 2009

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Fiscal Year 2009 (FY 2009) Notice of Funding Availability (NOFA) for the Self-Help Homeownership Opportunity Program (SHOP). This announcement contains the consolidated names and addresses of this year's award recipients under SHOP.

FOR FURTHER INFORMATION CONTACT: For questions concerning SHOP Program awards, contact Ginger Macomber, SHOP Program Manager, Office of Affordable Housing Programs, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–4500, telephone (202) 402–4605. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The SHOP program provides grants to national and regional nonprofit organizations and consortia that have experience in providing self-help housing. Grant funds are used to purchase land and install or improve infrastructure, which together may not exceed an average investment of $15,000 per dwelling unit. Low-income homebuyers contribute a minimum of 100 hours of sweat equity on the construction of their homes and/or the homes of other homebuyers participating in the local self-help housing program. Sweat equity can include, but is not limited to, assisting in the painting, carpentry, trim work, drywall, roofing and siding for the housing. Persons with disabilities can substitute administrative tasks. Donated volunteer labor is also required.

The SHOP funds together with the sweat equity and volunteer labor contributions significantly reduce the cost of the housing for the low-income homebuyers. The FY 2009 awards announced in this Notice were selected for funding in the competition posted on HUD's Web site on *http://www.hud.gov/offices/adm/grants/nofa09/gensec.pdf.* Applications were scored and selected for funding based on the selection criteria in the General Section and the SHOP program section which can be found at *http://www.hud.gov/library/bookshelf12/supernofa/nofa09/grpshop.cfm.*

The amount appropriated in FY 2009 to fund the SHOP grants was $26,500,000. The allocations for SHOP grantees are as follows:

Tierra del Sol Housing Corporation, 880 Anthony Drive, Anthony, NM 88021	$983,089
Community Frameworks, 409 Pacific Avenue, Bremerton, WA 98337	5,146,258
Housing Assistance Council, 1025 Vermont Avenue, Washington, DC 20005	9,130,912

Habitat for Humanity International, 121 Habitat Street, Americus, GA 31709	11,239,741
Total	26,500,000

These non-profit organizations propose to distribute SHOP funds to several hundred local affiliates that will acquire and prepare the land for construction, select homebuyers, coordinate the homebuyer sweat equity and volunteer efforts, and assist in the arrangement of interim and permanent financing for the homebuyers.

Dated: *October 6, 2010.*

Mercedes Márquez,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2010–25764 Filed 10–12–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2010–N130; 10120–1112–0000–F2]

Endangered and Threatened Wildlife and Plants; Permit; Habitat Conservation Plan for Operation and Maintenance of Existing and Limited Future Facilities associated With the Kaua'i Island Utility Cooperative on Kaua'i, Hawai'i

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a draft habitat conservation plan, draft implementing agreement, draft environmental assessment, and a permit application; request for comments.

SUMMARY: The Kaua'i Island Utility Cooperative (KIUC) (Applicant) has submitted an application to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (permit) under the Endangered Species Act of 1973, as amended (ESA). The Applicant is requesting a permit to authorize incidental take of the federally endangered Hawaiian petrel (*Pterodroma sandwichensis*), the federally threatened Newell's (Townsends) shearwater (*Puffinus auricularis newelli*), and the band-rumped storm-petrel (*Oceanodroma castro*), a Federal candidate species that could become listed during the term of the permit (collectively, these three species are hereafter referred to as the "Covered Species"). The permit application includes a draft Habitat Conservation Plan (HCP) that describes the Applicant's actions and the measures the Applicant will implement to minimize, mitigate, and monitor incidental take of the Covered Species, and a draft Implementing Agreement (IA). The Service also announces the availability of a draft Environmental Assessment (EA) that has been prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act (NEPA). We are making the permit application package and draft EA available for public review and comment.

DATES: All comments from interested parties must be received on or before November 29, 2010.

ADDRESSES: Please address written comments to Loyal Mehrhoff, Project Leader, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room #3–122, Honolulu, HI 96850. You may also send comments by facsimile to (808) 792–9580.

FOR FURTHER INFORMATION CONTACT: Bill Standley, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service (*see* **ADDRESSES** above), telephone (808) 792–9400.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may request copies of the permit application, which includes the draft HCP, draft IA, and EA, by contacting the Service's Pacific Islands Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** above). These documents are also available electronically for review on the Service's Pacific Islands Fish and Wildlife Office Web site at *http://www.fws.gov/pacificislands.* Comments and materials we receive, as well as supporting documentation we used in preparing the NEPA document, will become part of the public record and will be available for public inspection, by appointment, during regular business hours. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

We specifically request information from the public on whether the application meets the statutory and regulatory requirements for issuing a permit, and identification of any impacts on the human environment that should have been analyzed in the draft EA. We are also soliciting information regarding the adequacy of the HCP to minimize, mitigate, and monitor the proposed incidental take of the Covered Species and to provide for adaptive management, as evaluated against our permit issuance criteria found in section 10(a) of the ESA, 16 U.S.C. 1539(a), and 50 CFR 13.21, 17.22, and 17.32. In compliance with section 10(c) of the ESA, we are making the permit application package available for public review and comment for 45 days (*see* **DATES** section above).

Background

Section 9 of the ESA (16 U.S.C. 1531 *et seq.*) and Federal regulations prohibit the take of fish and wildlife species listed as endangered or threatened. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed fish and wildlife species. Incidental take is defined as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found at 50 CFR 17.32 and 17.22. If issued, the permittee would receive assurances under the Service's "No Surprises" regulations at 50 CFR 17.32(b)(5) and 50 CFR 17.22(b)(5).

KIUC is a utility cooperative that generates and distributes electricity to the entire island of Kaua'i, Hawai'i. KIUC developed a draft HCP that addresses incidental take of the three Covered Species caused by the operation and maintenance of KIUC's existing and anticipated facilities over a period of up to 5 years.

The three Covered Species are seabirds that breed on Kaua'i and feed in the open ocean. Each of the Covered Species spends a large part of the year at sea. Adults generally return to their colonial nesting grounds in the interior mountains of Kaua'i beginning in March and April, and depart beginning in September. Fledglings (*i.e.,* young birds learning how to fly) travel from the nesting colony to the sea in the fall. Both adults and fledglings are known to

collide with tall buildings, towers, power lines, and other structures while flying at night between their nesting colonies and at-sea foraging areas. These birds, and particularly fledglings, are also attracted to bright lights. Disoriented birds are commonly observed circling repeatedly around exterior light sources until they fall to the ground or collide with structures.

In an effort to address some of the immediate impacts to the Covered Species by KIUC's existing facilities, the Service and KIUC entered into a Memorandum of Agreement (MOA) in November 2002, and again in January 2005. Under the MOAs, KIUC agreed to implement interim conservation measures (ICMs) to reduce the impacts of its facilities on the Covered Species while long-term conservation actions are being developed in a HCP. The ICMs include shielding streetlights on KIUC power poles to minimize disorientation of seabirds caused by lights and funding the State's "Save Our Shearwaters" (SOS) program to rescue downed fledglings. The 2005 MOU expired in June 2006.

Proposed Plan

The draft HCP covers KIUC activities within all areas on Kaua'i where its facilities (*e.g.,* generating stations, power lines, utility poles, lights) are located. These activities include the continuing operation, maintenance, and repair of all existing facilities, and the construction, operation, maintenance, and repair of certain new facilities, during the term of the incidental take permit. The draft HCP describes the impacts of take incidental to those activities on the Covered Species, and proposes certain measures to minimize and mitigate the impacts of such take on each of the Covered Species. The Applicant has also applied for a State of Hawaii incidental take license under Hawaii state law.

KIUC is proposing mitigation measures that include: (1) Fully funding implementation of the SOS Program; (2) funding Covered Species colony management and predator control in the Limahuli Valley; (3) funding Covered Species colony management and predator control in the Hono o Na Pali Natural Area Reserve; (4) updating estimates of at-sea Covered Species populations; (5) funding a 2-year auditory survey to locate additional Covered Species breeding colonies; (6) funding development and implementation of an under-line monitoring program aimed at better understanding the amount of take of Covered Species caused by overhead utility structures; and (7) funding Covered Species colony management and predator control in the Wainiha Valley or other suitable location during the fourth and fifth year of the permit. The work that KIUC proposes to carry out is intended to enhance our knowledge of the Covered Species' biology and distribution and improve these species' chances of reproductive success to offset the impacts of take caused by KIUC activities. The HCP also includes adaptive management provisions to allow for modifications to the mitigation and monitoring measures as knowledge is gained during their implementation.

We invite comments and suggestions from all interested parties and request that comments be as specific as possible. In particular, we request information and comments regarding the following issues:

(1) The direct, indirect, and cumulative effects that implementation of any reasonable alternatives could have on endangered and threatened species;

(2) Other reasonable alternatives consistent with the purpose of the proposed HCP as described above, and their associated effects;

(3) Measures that would minimize and mitigate potentially adverse effects of the proposed action;

(4) Adaptive management or monitoring provisions that may be incorporated into the alternatives, and their benefits to listed species;

(5) Other plans or projects that might be relevant to this action;

(6) The proposed term of the Incidental Take Permit and whether the proposed conservation program would sufficiently minimize and mitigate the incidental take that would be expected to occur over 5 years; and

(7) Any other information pertinent to evaluating the effects of the proposed action on the human environment.

The draft EA considers the direct, indirect, and cumulative effects of the proposed action of permit issuance, including the measures that will be implemented to minimize and mitigate such impacts. The EA contains an analysis of three alternatives: (1) No Action (no permit issuance and the status quo in terms of KIUC's actions with respect to incidental take of Covered Species); (2) issuance of an incidental take permit to KIUC on the basis of its proposed HCP; and (3) issuance of a 3-year permit based on implementation of the proposed HCP.

This notice is provided pursuant to section 10(c) of the ESA and NEPA regulations (40 CFR 1506.6). The public process for the proposed Federal action will be completed after the public comment period, at which time we will evaluate the permit application, the HCP and associated documents (including the EA), and comments submitted thereon to determine whether or not the proposed action meets the requirements of section 10(a) of the ESA and has been adequately evaluated under NEPA.

Dated: September 17, 2010.

Theresa E. Rabot,

Acting Deputy Regional Director.

[FR Doc. 2010–25707 Filed 10–12–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before September 18, 2010. Pursuant to section 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by October 28, 2010.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

COLORADO

Larimer County

Soloman Batterson Ranch, 603 Mount Moriah Rd, Livermore, 10000860.

IOWA

Henry County

Collins—Bond House, 402 S Main St, Salem, 10000869.

Reeves, Isaac and Agnes (Bells), House, 209 S. Main St, Salem, 10000871.

Wilson, Paton and Hannah, House, 1360 280th St., Salem, 10000870.

MAINE

Cumberland County

Engine Company Number Nine Firehouse, 17 Arbor St, Portland, 10000876.

MARYLAND

Baltimore Independent City

Hebrew Orphan Asylum, 2700 Rayner Ave, Baltimore, 10000868.

MASSACHUSETTS

Barnstable County

Spring Hill Historic District, Roughly bounded by MA RTE 6A, Spring Hill Rd, and Discovery Hill Rd., Sandwich, 10000862.

NEW JERSEY

Cumberland County

Millville Army Air Field, General airport landside area N of the airport airside, City of Millville, 10000875.

Ohio

Athens County

East State Street Historic District, East State St 138–234, 169–277l Elmwood 5–73, 6–72, 74, Athens, 10000872.

Cuyahoga County

Joseph and Feiss Clothcraft Shops, The, 2149 W 53rd St, Cleveland, 10000873.

Erie County

Stone House, The, 8217 Mason Rd, Berlin Heights, 10000874.

SOUTH CAROLINA

Charleston County

Ashley River Historic District, NW of Charleston between the NE bank of the Ashley River and the Ashley-Stono Canal and E of Delmar HWY (HWY 165), Charleston, 10000861.

TEXAS

Hays County

Donalson, Cora Jackman, House, (Rural Properties of Hays County, Texas MPS) 200 S Sledge St, Kyle, 10000864.

Nueces County

Sherman Building, 317 Peoples St, Corpus Christi, 10000863.

Tarrant County

Miller Manufacturing Company Building, 311 Bruan Ave, Fort Worth, 10000865.

Nash, Thomas J. and Elizabeth, Farm, 626 Ball St, Grapevine, 10000866.

WISCONSIN

La Crosse County

Edgewood Place Historic District, 2500 block of Edgewood Pl, La Crosse, 10000867.

[FR Doc. 2010–25754 Filed 10–12–10; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Removal of Listed Property

Pursuant to section 60.15 of 36 CFR Part 60, comments are being accepted on the following properties being considered for removal from the National Register of Historic Places. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by October 28, 2010.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

Request for REMOVAL has been made for the following resource:

PENNSYLVANIA

Schuykill County

Mount Pleasant Historic District, TR 881, Mt. Pleasant, 87002211.

[FR Doc. 2010–25753 Filed 10–12–10; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA–49561 L51010000 FX0000 LVRWB09B3220 LLCAD08000]

Notice of Availability of the Record of Decision for the Chevron Energy Solutions Lucerne Valley Solar Project, California and the Approved Plan Amendment to the California Desert Conservation Area Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD)/Approved Plan Amendment (PA) to the California Desert Conservation Area (CDCA) Plan for the Chevron Energy Solutions (CES) Lucerne Valley Solar Project located in San Bernardino County, California. The Secretary of the Interior approved the ROD on October 5, 2010 which constitutes the final decision of the Department.

ADDRESSES: Copies of the ROD/Approved PA are available upon request at the BLM's California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553 or via the Internet at *http://www.blm.gov/ca/st/en/prog/energy/fasttrack.html.*

FOR FURTHER INFORMATION CONTACT: For further information contact Greg Thomsen, Project Manager; telephone (951) 697–5237; address 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553; e-mail *lucernesolar@blm.gov*.

SUPPLEMENTARY INFORMATION: The Lucerne Valley Solar Project was proposed by CES. The Lucerne Valley Solar Project involves a 422-acre right-of-way (ROW) authorization to construct and operate a 45-megawatt (MW) solar photovoltaic project which would connect to an existing Southern California Edison 33 kilovolt distribution system. The approved project will include the power generation facility, a new switchyard, control/maintenance building, parking area, and set-back area. A portion of Zircon Road will also be relocated.

Pursuant to BLM's CDCA Plan (1980, as amended), sites associated with power generation or transmission not identified in the CDCA Plan will be considered through the plan amendment process. As a result, prior to approval of a ROW grant for the Lucerne Valley Solar Project, the BLM must amend the CDCA Plan to allow a solar

generating project on this site. The Approved PA revises the CDCA Plan to allow for the development of the Lucerne Valley Solar Project on 422 acres of land managed by the BLM with other ancillary structures and facilities. The selected alternative (up to 45 MW of generated power) is a combination of Alternative 3, the Proposed Action, and Alternative 4, Modified Site Layout. This combination of alternatives includes all of the features in Alternative 4, with the exception of rerouting some of the surface water drainage to provide additional water to the vegetative screen area. The surface water would follow the natural pathways as identified in Alternative 3.

The Final Environmental Impact Statement/Proposed PA was published in the **Federal Register** on August 13, 2010 (75 FR 49515), initiating a 30-day protest period and concurrent 30-day comment period.

Two comment letters and one protest letter were received, considered, and incorporated as appropriate into the ROD/Approved PA. Public comments and protests did not significantly change the decisions in the ROD/Approved PA. The State of California Governor's consistency review did not identify any inconsistencies between the proposed project and state and local plans, policies or programs.

Authority: 40 CFR 1506.6.

Robert V. Abbey,

Director, Bureau of Land Management.

[FR Doc. 2010–25724 Filed 10–12–10; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA–47740, LLCAD07000, L51030000.FX0000, LVRAB109AA01]

Notice of Availability of the Record of Decision for the Imperial Valley Solar Project and Associated Amendment to the California Desert Conservation Area Resource Management Plan-Amendment, Imperial County, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD)/Approved Amendment to the California Desert Conservation Area (CDCA) Plan (the applicable Resource Management Plan (RMP) for the project site and the surrounding areas) located in the California Desert District. The Secretary of the Interior approved the ROD on October 5, 2010, which constitutes the final decision of the Department and makes the Approved Amendment to the CDCA Plan effective immediately.

ADDRESSES: Copies of the ROD/Approved Amendment to the CDCA Plan are available upon request from the Field Manager, El Centro Field Office, Bureau of Land Management, 1661 S. 4th Street, El Centro, California, 92243 or via the internet at the following Web site: *http://www.blm.gov/ca/st/en/fo/elcentro/nepa/stirling.html.*

FOR FURTHER INFORMATION CONTACT: Jim Stobaugh, BLM Project Manager; telephone: (775) 861–6478; mailing address: Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520; or e-mail at *Jim_Stobaugh@blm.gov.*

SUPPLEMENTARY INFORMATION: Stirling Energy Systems (SES) filed right-of-way (ROW) application CACA–47740 for the proposed SES Solar Two Project. After merging with Tessera Solar, the applicant changed its name to Imperial Valley Solar, LLC, and changed the name of the project to the Imperial Valley Solar LLC (IVS) project. The IVS project is a concentrated solar electrical generating facility using the proprietary SunCatcher technology and facilities. The IVS project site is proposed on approximately 6,360 acres of BLM-managed lands in Imperial County, California, approximately 4 miles east of the community of Ocotillo, and 14 miles west of the City of El Centro. In addition to the SunCatcher fields site, the project includes an 230 kilovolt electrical transmission line that encumbers approximately 93 acres of public lands from the site to an off-site existing San Diego Gas and Electric substation, a water supply pipeline that encumbers approximately 4 acres of public lands from an off-site water treatment plant to the project site, and a new 230 kilovolt substation, a main services complex, with other ancillary structures and facilities within the project site.

The project site is in the California Desert District within the planning boundary of the CDCA Plan, which is the applicable RMP for the project site and the surrounding areas. The CDCA Plan, while recognizing the potential compatibility of solar generation facilities on public lands, requires that all sites associated with power generation or transmission not already identified in that Plan be considered through the BLM's land use plan amendment process. As a result, prior to approval of a ROW grant for the IVS project, the BLM must amend the CDCA Plan to allow that solar generating project on that site. The Approved Amendment to the CDCA Plan specifically revises the CDCA Plan to allow for the development of the IVS project on the 6,360 acres of land managed by the BLM with other ancillary structures and facilities.

The BLM preferred alternative would result in the placement of approximately 28,360 SunCatchers on the site capable of generating approximately 709 megawatts (MW) of electricity. The 709 MW Alternative was not evaluated in the Draft Environmental Impact Statement (EIS); it is a modification of the 750 MW project evaluated in the Draft EIS. The 709 MW Alternative was evaluated in the Final EIS. The Notice of Availability of the Final EIS for the IVS project and the proposed CDCA Plan amendment was published in the **Federal Register** on July 28, 2010 (75 FR 44278).

Publication of the Notice of Availability for the Final EIS initiated a 30-day protest period for the proposed amendment to the CDCA Plan. At the close of the protest period on August 27, 2010, 7 timely and complete written protests were received and resolved. Their resolution is summarized in a Protest Resolution Report attached to the ROD. The proposed amendment to the CDCA Plan was not modified as a result of the protest resolution. Simultaneous to the protest period, the Governor of California conducted a 30-day consistency review of the proposed CDCA Plan amendment/Final EIS to identify any inconsistencies with the state or local plan, policies, or programs. The California Governor's office did not identify inconsistencies between the proposed amendment to the CDCA Plan/Final EIS and state or local plan, policies, or programs.

Because this decision is approved by the Secretary of the Interior, it is not subject to appeal (43 CFR 4.410(a)(3)). Therefore, the decision is effective immediately.

Authority: 40 CFR 1506.6.

Robert V. Abbey,

Director, Bureau of Land Management.

[FR Doc. 2010–25723 Filed 10–12–10; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Reno-Sparks Indian Colony Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Secretary's certification of the Liquor Control Ordinance of the Reno-Sparks Indian Colony. The enactment of this Ordinance allows the Wal-Mart Superstore to sell liquor on tribal lands, which will general millions of dollars in sales revenue and increase funding for essential government services provided by the Reno-Sparks Indian Colony. The ordinance will increase the ability of the tribal government to control the distribution and possession of liquor within their reservation.

DATES: *Effective Date:* This Ordinance is effective as of October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Sharlot Johnson, Tribal Government Services Officer, Western Regional Office, 2600 North Central Avenue, Phoenix, Arizona 85004–3050, Telephone (602) 379–6786; Fax (602) 379–4100; or Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240; Telephone (202) 513–7641; Fax (202) 208–5113.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Reno-Sparks Indian Colony adopted Liquor Control Ordinance No. 14–A on June 30, 2010.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Tribal Council of the Reno-Sparks Indian Colony duly adopted this Liquor Control Ordinance on June 30, 2010.

Dated: October 5, 2010.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

The Liquor Ordinance for the Reno-Sparks Indian Colony reads as follows:

ORDINANCE NO. 14–A

RENO–SPARKS INDIAN COLONY LIQUOR CONTROL ORDINANCE

AN ORDINANCE TO GENERALLY REVISE AND RECODIFY THE RENO–SPARKS INDIAN COLONY LIQUOR CONTROL LAWS.

WHEREAS, the RSIC has previously regulated the introduction, possession, sale and consumption of liquor under Ordinance 14 (approved June 8, 1977) and Title 5, Section 5–70–140 (approved April 25 1984); and

WHEREAS, the enactment of this Ordinance is required to allow the Wal-Mart Superstore to open on RSIC lands, which will generate millions of dollars in sales revenue to fund essential government services and purposes of the RSIC; and

WHEREAS, when this Ordinance 14–A replaces and repeals RSIC's prior ordinances, the Reno-Sparks Indian Colony will continue to be a "dry" reservation where the possession or consumption of liquor will continue to be strictly prohibited and enforced; and

WHEREAS, the only exception to the liquor prohibition is where a business (such as Wal-Mart) or person gets a License from the Tribal Council, but even where a License is issued, the Tribal Council can prohibit or limit liquor consumption on the Licensed Premises; and

NOW, THEREFORE, BE IT RESOLVED, that the Reno-Sparks Tribal Council hereby revises, and requests that the Secretary of the Interior to publish its liquor control Ordinance to accomplish these purposes and renumbers the Ordinance as Ordinance 14A, which shall repeal and supersede Ordinance 14 and Title 5, Section 5–70–140.

Section I—Introduction

A. Title. This Ordinance shall be known as the "Reno-Sparks Indian Colony Liquor Control Ordinance" and is enacted for the purposes set forth herein.

B. Authority. This Ordinance is enacted pursuant to the Act of August 15, 1953, 67 Stat. 586 (codified at 18 U.S.C. Section 1161) and Article VI, Section I (g) of the Reno-Sparks Indian Colony Constitution, and by the authority of the Reno-Sparks Indian Colony duly elected Tribal Council.

C. Territorial *Scope.* This Ordinance shall apply to all trust lands of the Reno-Sparks Indian Colony and lands within the exterior boundary of the Reno-Sparks Indian Colony.

D. Effective Date. This Ordinance shall be effective upon approval by the Secretary of the Interior and publication in the **Federal Register**.

Section II—General Provisions

A. Definitions. As used in this Ordinance, the following words shall have the following meanings unless the context plainly requires otherwise:

(i) "Alcohol" shall mean that substance known as ethyl alcohol, hydrated oxide or ethyl, or spirit or wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, sugar or other substances including all dilutions and mixtures of those substances.

(ii) "Alcoholic Beverage" is synonymous with the term "Liquor" as defined by this ordinance.

(iii) "Beer" shall mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain of cereal or any combination thereof.

(iv) "Legal Age" shall mean the age established by Nevada law for the consumption, purchase and/or possession of alcoholic beverages.

(v) "License" shall mean the license issued under Section V.

(vi) "Licensee" shall mean the person or entity authorized to sell Liquor, Beer or Wine by a License issued by the RSLCC.

(vii) "Licensed Premises" shall mean the property where a Licensee is authorized to sell liquor.

(viii) "Liquor" shall mean all fermented spirituous, vinous, or malt liquor or combination thereof, and mixed liquor, a part of which is fermented, and every liquid or solid or semisolid or other substance, patented or not, containing distilled or rectified spirits, potable alcohol, beer, wine, brandy, whiskey, rum, gin, aromatic bitters, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semisolid, solid, or other substances, which contains more than one half of one percent alcohol.

(ix) "Liquor Control Commission" or "RSLCC" shall mean the Tribal Council of the Reno-Sparks Indian Colony.

(x) "Membership" shall mean the enrolled membership of the Reno-Sparks Indian Colony as approved by official action of the Reno-Sparks Tribal Council.

(xi) "Ordinance" shall mean the Reno-Sparks Indian Colony Liquor Control Ordinance.

(xii) "Package" shall mean any container or receptacle used for holding liquor.

(xiii) "Retailer" shall mean any business licensed by the Liquor Control Commission to sell liquor for off premises consumption.

(xiv) "RSIC" shall mean the Reno-Sparks Indian Colony.

(xv) "RSIC Land" shall mean all land held in trust by the United States Government for the Reno-Sparks Indian Colony.

(xvi) "Sale" or "Sell" shall mean the exchange, barter and traffic of liquor by any person to any person for consumption.

(xvii) "Tribal Council" shall mean the governing body of the Reno-Sparks Indian Colony.

(xviii) "Tribal Court" shall mean the Reno-Sparks Indian Colony Tribal Court.

(xix) "Wine" shall mean any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar.

B. *Declaration of Policy and Purpose.*

(i) The introduction, possession, sale and use of liquor on the Reno-Sparks Indian Colony is a matter of special concern to the RSIC.

(ii) Federal law currently prohibits the introduction of liquor into Indian Country (18 U.S.C. Section 1154), except as provided therein and expressly delegates to the tribes the decision regarding when and to what extent the sale, possession, and consumption of liquor shall be permitted.

(iii) The RSIC has previously adopted an ordinance legalizing introduction, sale or possession of intoxicants (Ordinance 14).

(iv) The RSIC has previously adopted an ordinance criminalizing the possession of alcoholic beverages (Title 5—Section 5–70–140 Possession of Alcoholic Beverages).

(v) The RSIC Tribal Council finds that a need exists to revise and update the RSIC's laws regarding the introduction, sale, possession and use of liquor and alcohol and that this ordinance repeals and replaces all previously adopted liquor ordinances, including Ordinance 14 and Title 5—Section 5–70–140.

(vi) The RSIC Tribal Council adopts this Ordinance for the purposes set forth in the "Whereas" clauses set forth above.

C. *General Prohibition.* It shall be a violation of this Ordinance to introduce, sell, possess or consume liquor on RSIC Land except upon the terms, conditions, limitations, and restrictions specified herein.

D. Conformity with State and Federal Law. RSIC authorized introduction, sale, possession, or use of liquor shall comply with the Nevada State Liquor law standards of general applicability throughout the State to the extent required by 18 U.S.C. Section 1161 and other federal law. Nothing in this ordinance shall constitute or be construed as a waiver of RSIC sovereign immunity or the RSIC's consent to the jurisdiction by the state of Nevada over matters coming within the purview of this ordinance.

Section III—Liquor Control Commission

A. There is hereby established the Reno-Sparks Liquor Control Commission ("RSLCC").

B. Membership of the RSLCC shall be composed of the nine (9) members of the Tribal Council. No member of the RSLCC shall have any interest in a Licensed Premises or an entity that sells liquor on a Licensed Premises.

C. The RSLCC is empowered to:

(i) Promulgate such rules and regulations as may be necessary and desirable for the proper implementation and enforcement of this Ordinance.

(ii) License, regulate, supervise, inspect and oversee all liquor transactions, and premises and persons involved therewith.

(iii) Hire such employees as are necessary to carry out the powers and duties of the Commission.

(iv) Issue Licenses permitting the sale of liquor on RSIC Land.

(v) Inspect the premises on which liquor is sold at all reasonable times for the purposes of ascertaining whether the rules and regulations of this Ordinance are being complied with.

(vi) Hold hearings on violations of the Ordinance or for the issuance or revocation of Licenses hereunder.

(vii) Bring suit in the appropriate court to enforce this Ordinance.

(viii) Determine and seek damages for violations of this Ordinance.

(ix) Make such reports as may be required by the Tribal Council.

(x) Collect fees and or taxes as set by the RSLCC, to keep accurate records, books, and accounts.

(xi) Take any action it deems necessary and appropriate to correct and prevent violations of this Ordinance and applicable rules and regulations including but not limited to license suspension and/or revocation, referral for prosecution, imposition or monetary fines and civil suit.

(xii) Take any and all additional actions necessary or incidental to the implementation and enforcement of this Ordinance.

Section IV—Sales Of Liquor

A. Licenses Required. No sales of alcoholic beverages shall be made on RSIC Land, except pursuant to the terms and conditions of a License issued by the RSLCC.

B. Sales. All liquor sales on RSIC Land shall be by cash, credit card or by check.

C. Sale for Personal Use. All sales shall be for the personal use and consumption of the purchaser. Resale of liquor or alcohol on RSIC Land is prohibited. Any person who is not licensed pursuant to this Ordinance who purchases liquor or alcohol on RSIC Land and sells it for consumption or possession on RSIC Land, whether in the original container or not, shall be guilty of a violation of this Ordinance and shall be subject to all applicable enforcement provisions of this Ordinance.

Section V—Licensing

A. Application for RSIC Liquor License Requirements. No RSIC License shall be issued under this Ordinance except upon a sworn application filed with the RSLCC containing a full and complete showing of the following:

(i) Satisfactory proof that the applicant has met all required state of Nevada and RSIC licensing requirements to conduct business in the state of Nevada and on RSIC Land.

(ii) Satisfactory proof that the applicant is of good character and the applicant is financially responsible.

(iii) A description of the premises in which the liquor is to be sold and proof that the applicant will be the owner or lessee of such premises for at least the term of the License.

(iv) Agreement by the applicant to accept and abide by all conditions of the RSIC License.

(v) Payment of an application fee established by the RSLCC.

(vi) Satisfactory proof that the applicant has never been convicted of a felony.

B. Issuance of RSIC Liquor License. All applications for a RSIC liquor License shall be considered by the RSLCC in an open session of the RSIC Tribal Council. The RSLCC may issue a License if it believes that such issuance is in the best interest of the RSIC and its Membership.

C. Conditions of Liquor License. Any RSIC Licenses issued under the title shall be subject to such reasonable conditions as the RSLCC shall fix, including, but not limited to the following:

(i) The License shall be for a term not to exceed 5 years.

(ii) The Licensee shall at all times maintain an orderly, clean and neat establishment, both inside and outside the Licensed Premises.

(iii) The Licensee shall comply with all rules and regulations of Section VI.

(iv) The Licensed Premises shall be subject to patrol and inspection by RSIC law enforcement officials.

(v) The Licensed Premises shall be subject to inspection by the RSLCC or it's duly appointed designee.

(vi) Each license shall be posted on the Licensed Premises and shall specify:

a. The name of the Licensee,

b. A description of the Licensed Premises,

c. The date of issuance and expiration,

d. The character and kind of liquor authorized for sale, and

e. The hours authorized for the sale of liquor

(vii) All acts and transactions under the authority of this Ordinance shall be in conformity with the liquor laws of the state of Nevada, including but not limited to all age and hours of sale requirements.

(viii) There shall be no discrimination by reason of race, color, creed or gender in the operations under the RSIC License.

D. Suspension and Revocation. In addition to other penalties prescribed by this Ordinance, the RSLCC has the power, on its own motion or on complaint, after a hearing at which the Licensee shall be afforded reasonable notice and the opportunity to be heard, to suspend or revoke any License for any violation by the Licensee, or by any of the agents, servants, or employees of such Licensee, of the provisions of this Ordinance, regulations promulgated pursuant to the Ordinance, or other laws of the RSIC.

E. Insurance. Licensees under this Ordinance shall at all times maintain insurance coverage (or the RSLCC may, in its sole discretion, allow an applicant to self-insure).

F. Renewal of License. A Licensee may renew its License if the Licensee has complied in full with this ordinance; provided, however, that the RSLCC may refuse to renew a License if it finds that doing so would not be in the best interests of the health and safety of the RSIC.

G. Transferability. Liquor Licenses are not transferable or assignable and may only be utilized by the person or entity in whose name the License was issued.

Section VI—Prohibited Activities; Enforcement

A. Prohibited Activities. It shall be a violation of this Ordinance:

(i) For any person to sell or offer to sell any liquor for possession or consumption on RSIC Land except as provided by this Ordinance.

(ii) For any person to possess for resale on RSIC Land any liquor except as provided in this Ordinance.

(iii) For any person to sell liquor to a person apparently under the influence of alcohol, or other deleterious substances.

(iv) For any person to consume or possess liquor on RSIC Land unless it is permitted pursuant a valid License issued by the RSLCC.

(v) For any person to permit any person under the legal age to consume liquor on premises under his control, except when such liquor is being used in connection with bona fide religious services or practices approved by the RSIC Tribal Council.

(vi) For any person to sell liquor to any person under the legal age. Where there may be a question of a person's right to purchase liquor by reason of his or her age, such person shall be required to present proof of age with a valid drivers license, U.S. Military identification, passport, or liquor control authority card issued by any state department of motor vehicles.

(vii) To employ a person under the age of 18 to sell liquor, unless: a) the person is at least 16 years of age; and b) supervised by a person who is 18 years of age or over, present when the liquor is sold, and either an owner or an employee of the Licensee. All liquor sold by a person under the age of 18 must be in a container or receptacle that is corked or sealed.

(viii) To sell liquor during hours when such sale would be prohibited by Nevada law if the sale was occurring outside RSIC Land.

(ix) For any person to transfer, in any manner, identification of age to a minor for the purpose of permitting such minor to obtain liquor.

(x) For any person to attempt to purchase liquor through the use of false or altered identification, which falsely purports to show the individual to be of legal age to purchase liquor.

(xi) For any person to sell liquor on RSIC Land without a License issued by the RSLCC and/or contrary to the terms of a License issued by the RSLCC.

(xii) For any employee at a liquor establishment, when waiting on or serving customers, to consume liquor on the premises.

(xiii) For a person to have in his possession or to transport liquor which is manufactured in a distillery, winery, brewery or rectifying plant contrary to the laws of the United States.

(xiv) For a person to violate any provision of this Ordinance and/or RSLCC regulations.

B. Possession or Consumption of Liquor Contrary to This Ordinance. No person may possess or consume liquor on RSIC Land except on a Licensed Premises (or as otherwise expressly permitted under a License issued by the RSLCC), and all consumption of liquor upon or within a Licensed Premises is prohibited, unless expressly authorized under the terms of the License. Liquor which is possessed in contravention of this Ordinance is considered to be contraband and is subject to seizure by RSIC law enforcement or the RSLCC or its appointed designee.

C. Criminal Enforcement. A violation of this Ordinance is a Class B offense and any Indian deemed guilty of violating a provision of this Ordinance shall be subject to criminal penalties for such offenses under the Reno Sparks Indian Colony Law & Order Code, Section 5–10–080 (Sentencing), or as later amended. Non-Indians are subject to enforcement and/or prosecution under applicable state and/or federal laws.

D. Civil Fine. Any Licensee adjudged to be in violation of this Ordinance by the RSLCC shall be subject to a penalty not to exceed $1,000.00 per violation as civil damages.

Section V—Severability, Repeal Of Prior Acts, Sovereign Immunity

A. Severability. If any provision or application of this Ordinance is determined to be invalid, such adjudication shall not be held to render ineffectual the remaining portions of this Ordinance or to render such provisions inapplicable to other persons or circumstances.

B. Prior Enactments. This Ordinance repeals Ordinance 14 (approved June 8, 1977) and Title 5, Section 5–70–140 (approved April 25, 1984), and any other Ordinance or law that is inconsistent with the provisions of this Ordinance.

C. Sovereign Immunity. Nothing contained in this Ordinance is intended to, nor does in any way limit, alter, restrict, or waive the RSIC's sovereign immunity from suit or action.

Certification

I, the undersigned Secretary of the Reno-Sparks Tribal Council, hereby certify that the Tribal Council, composed of nine (9) members, of whom seven (7) constituting a quorum, were present at a duly called meeting which was convened and held on the 30th day of June, 2010, and that the foregoing resolution was duly adopted by a vote of six (6) for, zero (0) against, and one (1) abstention, pursuant to authority contained in Article VI, Section 1 (I) of the Constitution and By-Laws of the Reno-Sparks Indian Colony.

/s/Verna J. Nuno, Secretary

Reno-Sparks Tribal Council

[FR Doc. 2010–25785 Filed 10–12–10; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF JUSTICE

National Drug Intelligence Center

[OMB Number 1105–0087]

Agency Information Collection Activities: Proposed Extension With Change of a Previously Approved Collection; Comments Requested:

ACTION: 30-Day Notice of Information Collection Under Review: Extension with Change of a Previously Approved Collection SENTRY Synthetic Drug Early Warning and Response System.

The United States Department of Justice (DOJ), National Drug Intelligence Center (NDIC), will be submitting the following information collection request to the Office of Management of Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 1571, pages 49946–49947 on August 16, 2010, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 12, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension with Change of a Previously Approved Collection.

(2) *Title of the Form/Collection:* SENTRY Synthetic Drug Early Warning and Response System.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number:* NDIC Form # N/A.

(4) The 2004 National Synthetic Drugs Action Plan designated the NDIC as the lead agency for developing an early warning and response system. This instrument is critical for NDIC to detect emerging drug abuse and production trends and thereafter notify law enforcement demand authorities and prepare associated reports.

From February 2009 until September 2010, the SENTRY Synthetic Drug Early Warning and Response System was available only to specifically targeted groups including chemists; education providers (teachers, administrators, school resource officers, or school nurses); law enforcement personnel; treatment providers (physicians, nurses, emergency medical technicians, medical examiners); and other specific groups such as drug intelligence analysts.

The NDIC has determined that some SENTRY information may be of interest to members of the general public. As of June 2010, all SENTRY DrugAlert Watches, Drug Alert Warnings, and News and Bulletins have been made accessible to this group via the NDIC public facing Web site. The NDIC will make a SENTRY Geographic Information System map accessible to the public that includes color-coded substance categories, submission/event details, and a general locality of each submission/event.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that approximately annually 300 respondents will tender a submission/event requiring approximately 15 minutes. Use of the system is expected to increase significantly.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 75 total annual burden hours associated with this collection.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kevin M. Walker, General Counsel, National Drug Intelligence Center, Fifth Floor, 319 Washington Street, Johnstown, PA 15901.

If additional information is required contact: Mrs. Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, 145 N Street, NE., 2E–502, Washington, DC 20530.

Dated: October 7, 2010.

Lynn Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2010–25773 Filed 10–12–10; 8:45 am]

BILLING CODE 4410–DC–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under The Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 30, 2010, a proposed Settlement Agreement in the bankruptcy matter, *In re Chemtura Corp., et al.,* Jointly Administered Case No. 09–11233 (REG), was lodged with the United States Bankruptcy Court for the Southern District of New York. The Settlement Agreement resolves a claim filed by the United States on behalf of the Environmental Protection Agency ("EPA") against debtor Chemtura Corporation for response costs under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601–9675, with respect to the Gowanus Canal Superfund Site ("Gowanus Site") in Brooklyn, New York. Under the Settlement Agreement, EPA will receive an allowed general unsecured claim in the bankruptcy in the amount of $3,900,000. The Settlement Agreement is conditioned upon Chemtura's performance of its work obligations at 633 and 688–700 Court Street, Brooklyn, New York, pursuant to a separate settlement agreement and accompanying consent orders between Chemtura and the State of New York.

The Department of Justice will receive, for a period of thirty days from the date of this publication, comments relating to the Settlement Agreement. Comments should be addressed to the

Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Chemtura Corp., et al.,* D.J. Ref. 90–11–3–09736. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of the Resource Conservation and Recovery Act, 42 U.S.C. 6973(d).

The Settlement Agreement may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, please forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–25690 Filed 10–12–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under Sections 107(A) and 113(G)(2) of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on October 5, 2010, a Complaint was filed and a proposed Consent Decree was lodged in the United States District Court for the District of Utah in a matter captioned *United States* v. *Mueller Industries, Inc.,* Civil Action No. 2:10–cv–00981–BCW.

The Complaint is a civil action brought jointly by the United States and the State against Mueller Industries, Inc. ("Mueller") under Sections 107(a) and 113(g)(2) of the CERCLA, 42 U.S.C. 9607(a) and 9613(g)(2). The Complaint seeks the recovery of costs incurred and to be incurred by the United States and the State in response to releases or threatened releases of hazardous substances at the Eureka Mills Superfund Site ("Site") in Eureka, Utah., which the United States and the State of Utah allege are attributable to the activities of Mueller and its predecessors. The proposed Consent Decree resolves all allegations asserted in the Complaint and provides for a payment of $ 2,250,000 to the United States and $250,000 to the State of Utah. In exchange, Mueller receives from the United States and the State a covenant not to sue for past and future response costs for the Site and a covenant not to sue for certain property immediately adjacent to the Site, but only to the extent that releases from the adjacent property contribute to response costs incurred on-Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the settlement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Mueller Industries, Inc.,* Civil Action No. 2:10–cv–00981–BCW, Ref. 90–11–3–07993/5.

The Consent Decree may be examined at the United States Attorneys Office for the District of Utah, 185 South State Street, Suite 300, Salt Lake City, Utah 84111 (USAO No. 2010v00238) and at U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, follows *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, exclusive of exhibits, from the Consent Decree Library, please enclose a check in the amount of $6.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. If requesting a copy including all exhibits, please enclose a check in the amount of $6.50 payable to the U.S. Treasury.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–25670 Filed 10–12–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States, et al. v. *American Express Company, et al.;* Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Eastern District of New York in *United States of America, et al.* v. *American Express Company, et al.,* Civil Action No. CV–10–4496. On October 4, 2010, the United States and seven States filed a Complaint alleging that certain rules, policies, and practices of Defendants American Express Company, American Express Travel Related Services Company, Inc., MasterCard International Incorporated, and Visa Inc. violate Section 1 of the Sherman Act, 15 U.S.C. 1. Those rules, policies, and practices obstruct merchants from offering discounts, other benefits, and information to customers who use the merchants' preferred form of payment. The proposed Final Judgment, filed on the same day as the Complaint, resolves the case with respect to Defendants MasterCard and Visa by prohibiting them from maintaining the rules, policies, and practices challenged in the Complaint.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (*telephone:* 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the Eastern District of New York. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such

comments, and responses thereto, will be filed with the Court and may be published in the **Federal Register**, in accordance with the Antitrust Procedures and Penalties Act. Comments should be directed to John Read, Chief, Litigation III, Antitrust Division, Department of Justice, Washington, DC 20530, (*telephone:* 202–307–0468).

Robert Kramer,

Director of Operations.

In The United States District Court for the Eastern District of New York

United States of America, State of Connecticut, State of Iowa, State of Maryland, State of Michigan, State of Missouri, State of Ohio, and State of Texas Plaintiffs, v. *American Express Company, American Express Travel Related Services Company, Inc., Mastercard International Incorporated, and Visa Inc. Defendants.*

Civil Action No. CV–10–4496

(Garaufis, J.)
(Pollak, M.J.)

Complaint for Equitable Relief for Violation of Section 1 of the Sherman Act, 15 U.S.C. 1

The United States of America, by its attorneys acting under the direction of the Attorney General; the State of Connecticut, by its Attorney General Richard Blumenthal; the State of Iowa, by its Attorney General Thomas J. Miller; the State of Maryland, by its Attorney General Douglas F. Gansler; the State of Michigan, by its Attorney General Michael A. Cox; the State of Missouri, by its Attorney General Chris Koster; the State of Ohio, by its Attorney General Richard Cordray; and the State of Texas, by its Attorney General Greg Abbott (collectively, "Plaintiffs"), bring this civil antitrust action against Defendants American Express Company and American Express Travel Related Services Company, Inc. (collectively, "American Express"), MasterCard International Incorporated ("MasterCard"), and Visa Inc. ("Visa") (collectively, "Defendants") to obtain equitable relief to prevent and remedy violations of Section 1 of the Sherman Act, 15 U.S.C. 1.

Plaintiffs allege:

I. Introduction

1. Defendants operate the three largest credit and charge card transaction networks in the United States. In 2009, a substantial amount of interstate commerce—over $1.6 trillion in transaction volume—flowed through Defendants' networks. Every time a consumer uses one of Defendants' credit or charge cards to pay for a purchase from a merchant, the merchant must pay a fee, often called a "card acceptance fee," "merchant discount fee," or "swipe fee." In 2009 alone, Defendants and their affiliated banks collected more than $35 billion in such fees from U.S. merchants. Defendants' fees are a significant cost for merchants that accept Defendants' cards, and merchants pass these costs on to all consumers through higher retail prices.

2. Plaintiffs bring this action to prevent Defendants from imposing on merchants certain rules, policies, and practices ("Merchant Restraints") that insulate Defendants from competition. The Merchant Restraints impede merchants from promoting or encouraging the use of a competing credit or charge card with lower card acceptance fees. Each Defendant's vertical Merchant Restraints are directly aimed at restraining horizontal interbrand competition.

3. Each Defendant has suppressed competition with rival networks at the "point of sale," where merchants interact directly with customers, by disrupting the ordinary give and take of the marketplace. Most consumers who use credit or charge cards carry more than one. Defendants' Merchant Restraints, however, prevent merchants from offering their customers a discount or benefit for using a network credit card that is less costly to the merchant. Merchants cannot reward their customers based on the customer's card choice. Merchants cannot even suggest that their customers use a less costly alternative card by posting a sign stating "we prefer" another card or by disclosing a card's acceptance fee. In short, Defendants' Merchant Restraints prohibit merchants from fostering competition among credit card networks at the point of sale.

4. By incorporating and enforcing its Merchant Restraints in agreements with merchants, each Defendant has violated and continues to violate Section 1 of the Sherman Act, 15 U.S.C. 1.

II. Defendants

5. Defendant American Express Company is a New York corporation with its principal place of business in New York, New York. Defendant American Express Travel Related Services Company, Inc., a wholly owned subsidiary of American Express Company, is a Delaware corporation, with its principal place of business in New York, New York. It is the principal operating subsidiary of American Express Company. In 2009, cardholders used American Express credit and charge cards for purchases totaling $419.8 billion.

6. Defendant MasterCard is a Delaware corporation with its principal place of business in Purchase, New York. In 2009, cardholders used MasterCard credit and charge cards for purchases totaling $476.9 billion.

7. Defendant Visa is a Delaware corporation with its principal place of business in San Francisco, California. Visa has offices, transacts business, and is found in New York. In 2009, cardholders used Visa credit and charge cards for purchases totaling $764.2 billion.

III. Jurisdiction and Venue

8. Plaintiff United States of America brings this action pursuant to Section 4 of the Sherman Act, as amended, 15 U.S.C. 4, to obtain equitable and other relief to prevent and restrain violations of Section 1 of the Sherman Act, 15 U.S.C. 1. Plaintiffs Connecticut, Iowa, Maryland, Michigan, Missouri, Ohio, and Texas, by and through their respective Attorneys General, bring this action in their respective sovereign capacities and as parens patriae on behalf of the citizens, general welfare, and economy of their respective States under their statutory, equitable and/or common law powers, and pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, to prevent Defendants from violating Section 1 of the Sherman Act.

9. This Court has subject-matter jurisdiction over this action under Section 4 of the Sherman Act, 15 U.S.C. 4.

10. This Court has personal jurisdiction over each Defendant and venue is proper in this District under 15 U.S.C. 22 because each Defendant transacts business and/or is found within this District. Defendants' credit and charge cards are and have been used for billions of dollars of purchases in this District.

IV. Trade and Commerce

11. Defendants operate credit and charge card networks in the United States, and sell products and services in the flow of interstate commerce. Defendants' products and services involve a substantial amount of interstate commerce. In 2009, credit and charge card transaction volume on Defendants' networks in the United States exceeded $1.6 trillion.

V. Industry Background

12. General purpose credit and charge cards ("General Purpose Cards") are payment devices that a consumer can use to make purchases from a wide variety of merchants without accessing

or reserving the consumer's funds at the time of the purchase. There are two principal types of General Purpose Cards:

a. Credit cards, which usually permit the cardholder to pay either (i) all charges within a set period after a monthly bill is rendered, or (ii) only a portion of the charges within that time and pay the remainder in monthly installments, including interest; and

b. charge cards, which require the cardholder to pay all charges within a set period after a monthly bill is rendered.

13. General Purpose Cards include cards for personal use (issued to individuals for their personal use), cards for small business (issued to individuals for use with a small business), and commercial and corporate cards (issued to individuals, organizations, and businesses for business use).

14. General Purpose Cards do not include cards that can be used at only one merchant (such as department store cards) or cards that access funds on deposit in a checking or savings account or on the card itself (such as signature debit cards, PIN debit cards, prepaid cards, or gift cards).

15. In Visa and MasterCard transactions, the "card acceptance fee" or "merchant discount fee" that a merchant pays has three principal components: the interchange fee, the assessment fee, and the acquiring fee. To comply with the Visa and MasterCard rules, the merchant's bank (called the "acquiring bank"), which manages the merchant's relationship with Visa and MasterCard, must withhold the full card acceptance fee from the amount it pays the merchant for each transaction, meaning the merchant receives less than the retail price it charges to the consumer.

16. The largest component of the card acceptance fee is the interchange fee, which is received by the Visa or MasterCard "issuing bank" (or "issuer") that issues the card used by the customer. The interchange fee typically is set as a percentage of the underlying transaction price. Visa and MasterCard set interchange fees and have raised them significantly over time.

17. Visa and MasterCard themselves keep a part of the fee paid by merchants (the "assessment fee").

18. Finally, the acquiring bank keeps one component of the card acceptance fee, the acquiring fee, for its services.

19. American Express issues most of its General Purpose Cards to cardholders directly, combining issuer and network functions with respect to those General Purpose Cards. American Express generally provides network services directly to merchants as well. Some American Express cards are issued through agreements with issuing banks, in which case American Express operates only as a network. For all purposes relevant to this Complaint, such bank-issued cards function substantially the same as those issued by American Express directly, and American Express imposes the same Merchant Restraints for acceptance of its bank-issued cards.

20. Like the Visa and MasterCard networks, American Express' network imposes a fee on the merchant for each transaction. Like Visa and MasterCard, American Express' card acceptance fee typically is set as a percentage of the transaction price. For example, American Express imposes a card acceptance fee of 3% for some transactions. In such transactions, merchants would receive $97 on a $100 retail transaction. American Express would extract the remaining $3 from the transaction. The cost borne by merchants for customers' use of American Express General Purpose Cards is often substantially higher than the cost of customers' use of competing networks' General Purpose Cards. Any other General Purpose Card selected by the customer from the options in his or her wallet—such as a Discover, MasterCard, or Visa General Purpose Card—generally would be less costly to the merchant.

21. Merchants charge higher retail prices to customers to cover the cost of paying these fees to Defendants.

VI. Restraints on Competition

22. Each Defendant has instituted its own set of Merchant Restraints prohibiting or restricting a merchant that accepts that Defendant's General Purpose Card from encouraging its customers to use any other network's card at the point of sale. Defendants' Merchant Restraints impose a competitive straightjacket on merchants, restricting decisions by them to offer discounts, benefits, and choices to customers that many merchants would otherwise be free to offer.

23. Each Defendant applies its Merchant Restraints through agreements with merchants or with merchants' acquiring banks. Each Defendant's set of vertically imposed restrictions independently restrains competition among networks. Each Defendant's Merchant Restraints violate Section 1 of the Sherman Act apart from the existence of the other two Defendants' Merchant Restraints.

24. Visa and MasterCard include their Merchant Restraints in contracts with acquiring banks. Through these contracts, Visa and MasterCard require acquiring banks to obtain agreement from merchants to abide by Visa's and MasterCard's rules, including the Merchant Restraints. Visa and MasterCard require their acquiring banks to penalize merchants that do not adhere to the Merchant Restraints. American Express includes its Merchant Restraints in its contracts with merchants that accept its cards. In circumstances where American Express contracts with the merchant's acquiring bank, American Express requires the acquiring bank to ensure the merchant complies with the Merchant Restraints.

25. Merchants must accept the Merchant Restraints in order to accept Defendants' cards. Merchants clearly understand and expressly agree that they must comply with the Merchant Restraints. Defendants actively monitor and vigorously enforce the Merchant Restraints.

26. Visa's Merchant Restraints prohibit a merchant from offering a discount at the point of sale to a consumer who chooses to use an American Express, Discover, or MasterCard General Purpose Card instead of a Visa General Purpose Card. Visa's rules do not allow discounts for other payment cards that generally require a signature at the point of sale, unless such discounts are equally available for Visa transactions. Visa International Operating Regulations at 445 (April 1, 2010) (Discount Offer—U.S. Region 5.2.D.2).

27. Similarly, MasterCard's Merchant Restraints prohibit a merchant from "engag[ing] in any acceptance practice that discriminates against or discourages the use of a [MasterCard] Card in favor of any other acceptance brand." MasterCard Rule 5.11.1 (May 12, 2010). This means that merchants cannot offer a discount, or any other benefit, to persuade consumers to use an American Express, Discover, or Visa General Purpose Card instead of a MasterCard General Purpose Card. *Id.* MasterCard does not allow merchants to favor competing card brands. *Id.*

28. American Express' point-of-sale rules on merchants restrict competition more than the rules of its rival networks. American Express' Merchant Restraints are described in its "Merchant Reference Guide–US" (April 2010), Section 3.2. The language in Section 3.2 is inserted in identical or substantially similar form in most of American Express' contracts with merchants. In many agreements, the Guide is expressly incorporated by reference. The Merchant Restraints described in Section 3.2 impose the following restrictions on merchants that accept American Express:

Merchants must not:

—indicate or imply that they prefer, directly or indirectly, any Other Payment Products over [American Express'] Card,
—try to dissuade Cardmembers from using the Card,
—criticize * * * the Card or any of [American Express'] services or programs,
—try to persuade or prompt Cardmembers to use any Other Payment Products or any other method of payment (*e.g.,* payment by check),
—impose any restrictions, conditions, [or] disadvantages * * * when the Card is accepted that are not imposed equally on all Other Payment Products, except for ACH funds transfer, cash, and checks, * * * or
—promote any Other Payment Products (except the Merchant's own private label card that they issue for use solely at their Establishments) more actively than the Merchant promotes [American Express'] Card.

Merchants may offer discounts from their regular prices for payments in cash or by ACH funds transfer or check, provided that they clearly disclose the terms of the offer (including the regular and discounted prices) to customers and that any discount offered applies equally to Cardmembers and holders of Other Payment Products.

Whenever payment methods are communicated to customers, or when customers ask what payments are accepted, the Merchant must indicate their acceptance of the Card and display [American Express'] Marks according to [American Express'] guidelines and as prominently and in the same manner as any Other Payment Products.

29. The American Express Merchant Reference Guide–US defines the term "Other Payment Products" used in Section 3.2 as "[a]ny charge, credit, debit, stored value or smart cards, account access devices, or other payment cards, services, or products other than the [American Express] Card."

30. Defendants' rules and practices described in paragraphs 26–29 constitute the Merchant Restraints challenged in this action because and to the extent that they deter or obstruct merchants from freely promoting interbrand competition by offering customers discounts, other benefits, or information to encourage the customer to use a General Purpose Card or payment method other than that Defendant's General Purpose Card.

31. Defendants' Merchant Restraints thus forbid, among other things, the following types of actions a merchant could otherwise use at the point of sale to foster competition on price and terms among sellers of network services:

—promoting a less expensive General Purpose Card brand more actively than any other General Purpose Card brand;
—offering customers a discount or benefit for use of a General Purpose Card brand that costs less to the merchant;
—asking customers at the point of sale if they would consider using another General Purpose Card brand in their wallets;
—posting a sign encouraging use of, or expressing preference for, a General Purpose Card brand that is less expensive for the merchant;
—posting the signs or logos of General Purpose Card brands that cost less to the merchant more prominently than signs or logos of more costly General Purpose Card brands; or
—posting truthful information comparing the relative costs of different General Purpose Card brands.

32. Federal law mandates that networks permit merchants to offer discounts for cash transactions. Additionally, the new Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, by adding section 920 to the Electronic Fund Transfer Act, 15 U.S.C. 1693 *et seq.,* now forbids networks from prohibiting merchants from offering a discount for an entire payment method category, such as a discount for use of any debit card. All General Purpose Card networks operate under these laws. This Complaint does not seek relief relating to these two types of discounting.

VII. Relevant Markets

A. Product Markets

33. Defendants participate in two distinct product markets in the United States relevant to this Complaint: the General Purpose Card network services market, and the General Purpose Card network services market for merchants in travel and entertainment ("T&E") businesses.

1. General Purpose Card Network Services

34. General Purpose Card network services involve the processing of General Purpose Card transactions across a network. General Purpose Card networks provide infrastructure and mechanisms enabling merchants to obtain authorization for, settle, and clear transactions for their customers who pay with General Purpose Cards. Merchant acceptance of General Purpose Cards is defined and controlled at the network level, and prices to merchants are established directly or indirectly by the networks. A relevant product market for this case is the provision of General Purpose Card network services to merchants.

35. American Express, Discover, MasterCard, and Visa compete as sellers of these network services to merchants in the United States.

36. Visa and MasterCard provide network services indirectly to merchants through the merchants' acquiring banks. American Express generally sells its network services directly to merchants.

37. Merchants accept General Purpose Cards because many consumers strongly prefer to use General Purpose Cards over other means of payment. Millions of consumers prefer General Purpose Cards because they provide a combination of convenience, widespread acceptance, security, and deferred payment options that are not effectively replicated by other payment methods.

38. Each Defendant provides network services only for the use of its own General Purpose Cards, not for any other network's General Purpose Cards. Merchants that accept General Purpose Cards must purchase network services. Merchants cannot reasonably replace General Purpose Card network services with other services or reduce usage of these network services, even if such network services are substantially more expensive for merchants relative to services that enable other payment methods. Even a large increase in network fees would not provide a meaningful financial incentive for merchants to abandon acceptance of General Purpose Cards. Although other services that enable payment exist outside this relevant market, none of these services is a reasonable substitute for General Purpose Card network services from the perspective of merchants.

39. Competition from other payment methods in the geographic market identified below would not be sufficient to prevent a hypothetical monopolist of General Purpose Card network services from profitably maintaining supracompetitive prices and terms for network services provided to merchants over a sustained period of time. Nor would competition from other payment methods prevent a hypothetical monopolist in the General Purpose Card network services market from imposing anticompetitive conditions on merchants in that market.

40. In addition to selling General Purpose Card network services to merchants, Defendants provide separate network services to a different group of customers: issuers, which provide General Purpose Cards to cardholders. Questions of market power and harm are distinct for the two separate customer groups. Sellers of General Purpose Card network services to merchants could exercise market power over merchants even in circumstances in which they could not exercise market power over issuers. Any benefits received by issuers are not necessarily shared with merchants, and would not offset anticompetitive harm imposed by networks on merchants.

2. Travel and Entertainment Market

41. Within the relevant market of General Purpose Card network services, there is another relevant market—a price discrimination market—consisting of General Purpose Card network services provided to merchants in travel and entertainment businesses. Specifically, merchants selling goods and services to customers primarily for travel and entertainment (for example, air travel, lodging, and rental cars) are exposed to price discrimination.

42. Price discrimination occurs when a seller charges different customers (or groups of customers) different prices for the same services, when those different prices are not based on different costs of serving those customers. General Purpose Card networks set fees for network services to some merchants separately from fees to other merchants. Setting a lower fee for one group has little to no effect on a network's ability to set a higher fee for other groups.

43. Competition from other payment methods in the geographic market identified below would not be sufficient to prevent a hypothetical monopolist in the market for General Purpose Card network services for T&E merchants from either profitably maintaining supracompetitive prices and terms for network services to T&E merchants over a sustained period of time or imposing anticompetitive conditions on T&E merchants in that market. A hypothetical monopolist could price discriminate profitably against T&E merchants even if other merchants were paying lower prices for network services.

44. Each Defendant can identify whether a merchant participates in the T&E sector, and establishes merchant pricing by segment or category. Each Defendant, for example, has one set of prices for airline merchants and a different set of prices for supermarket merchants. American Express has separate price schedules for Airlines, Lodging, Car Rentals, and Travel Agents. American Express has an agreement with each merchant customer, and each agreement contains the price American Express charges that merchant. Visa and MasterCard can and do identify T&E merchants through their relationships with the merchants' acquiring banks.

45. Defendants charge merchants in the T&E sector higher fees than they charge most other merchants. Moreover, American Express charges T&E merchants higher fees than competing networks charge T&E merchants. The high fees to T&E merchants are not based on Defendants' higher costs of serving their T&E merchants. Each Defendant can charge T&E merchants high fees because those merchants are even less able to substitute away to other networks than other merchants. For example, American Express imposed a substantial fee increase on major airline merchants in 2008 without losing any major airline merchant customers, even though its fees already were higher than those of other General Purpose Card networks. A substantial differential in card acceptance fees exists between General Purpose Card network services for merchants in T&E businesses and merchants in other businesses.

46. Each Defendant's price discrimination against T&E merchants is persistent and systematic. American Express, for example, has successfully maintained higher profit margins for T&E customers than for other merchant categories.

47. Arbitrage, or indirect purchasing by T&E merchants of Defendants' network services from other merchants to avoid price discrimination, is impossible. For example, merchants can buy network services for transactions using American Express General Purpose Cards only from American Express, and one merchant cannot resell American Express network services to another merchant. T&E merchants have no realistic ability to avoid Defendants' high fees.

48. T&E merchants constitute a distinct customer group that cannot easily substitute away from the card network their customers want to use for travel and entertainment purchases. T&E merchants (such as airline, hotel, and rental car merchants) depend on business travelers as a significant source of revenues. Business travelers often are required or encouraged by their employers to use corporate cards of a particular network to qualify for reimbursement from their employers. Customers typically make larger purchases from T&E merchants than from merchants in many other industries. They also often purchase from T&E merchants through the Internet. T&E merchants thus rely more on General Purpose Cards than many other merchants and are even less willing and able than other merchants to substitute from General Purpose Cards to alternative payment methods in response to high network prices. In short, T&E merchants have particularly high inelasticity of demand for General Purpose Card network services.

49. Network industry participants recognize T&E merchants as a distinct market for network services. For many years, for example, American Express has had a T&E Industries Business Unit. Indeed, the principal operating subsidiary of American Express Company is the American Express Travel Related Services Company, Inc.

50. Accordingly, a distinct, additional relevant market exists for General Purpose Card network services to T&E merchants.

B. Geographic Market

51. The United States is the relevant geographic market for both the sale of General Purpose Card network services to all merchants and the sale of such services to T&E merchants.

52. Each Defendant treats the United States as a separate geographic market, as demonstrated in part by each Defendant's separate rules governing merchant acceptance in the United States and its separate pricing of network services to merchants in the United States. Defendants can easily identify the location of a merchant outlet. Arbitrage, or indirect purchasing by U.S. merchants of Defendants' network services from merchants located outside of the United States, is impossible.

53. The vast majority of General Purpose Card transactions with merchants located in the United States are made using General Purpose Cards issued in the United States. Almost all General Purpose Cards issued in the United States are issued under the American Express, Discover, MasterCard, and Visa networks. Other networks have limited competitive significance for U.S. merchants, as reflected in their negligible share of sales to U.S. merchants.

54. A hypothetical monopolist of General Purpose Card network services or General Purpose Card network services to T&E merchants could profitably maintain supracompetitive prices for network services provided to merchants in the United States over a sustained period of time and could

impose anticompetitive conditions on merchants in the United States even if merchants located outside the United States paid competitive prices for network services.

VIII. Market Power

55. Visa, MasterCard, and American Express each possess market power in the General Purpose Card network services market. The Second Circuit previously held that MasterCard and Visa each has market power in a General Purpose Card network services market. *U.S.* v. *Visa U.S.A., Inc.,* 344 F.3d 229, 238–39 (2d Cir. 2003). American Express also possesses market power in the General Purpose Card network services market.

56. Merchant acceptance of Defendants' General Purpose Cards is widespread. Merchants accounting for a substantial amount of General Purpose Card purchase volume in the United States accept all three Defendants' General Purpose Cards.

57. Merchants choose payment networks to accommodate the preferred payment brands of their customers. Some customers strongly prefer a particular brand and in some cases carry only one General Purpose Card brand. For example, in August 2009, 16% of American Express cardholders used only American Express and no other major General Purpose Cards. Such high cardholder insistence on using American Express gives American Express market power over merchants.

58. Merchants also consider whether their competitors accept a network's General Purpose Card and, if so, feel additional pressure to accept that network's card. Indeed, many merchants must accept all Defendants' General Purpose Cards to remain competitive with other merchants.

59. Despite technological advances that have decreased costs associated with General Purpose Card transactions over recent decades, Visa and MasterCard have increased the fees they charge merchants without losing sufficient merchants to make the price increases unprofitable.

60. American Express has for many years maintained the highest card acceptance fees among networks, including Visa and MasterCard. In recent years, American Express has increasingly been able to resist merchant pressure to reduce its card acceptance fees. American Express CEO Ken Chenault explained in 2009:

> At a time when many companies have had to cut or discount their prices and fees, we've been able to hold our own * * *. We're not lowering prices to get or keep customers or merchants. We continue to sign new merchants at existing discount rate levels * * *. This is significantly different from the position we were in during the downturn of the early 1990's. At that time our card and merchant pricing was under enormous pressure, and we did have to reduce fees.

American Express has increased the fees it charges many merchants without losing sufficient merchants to make the price increases unprofitable.

61. Notwithstanding these high fees, merchants continue to accept Defendants' General Purpose Cards because they would face serious economic consequences if they ceased to accept any one of the three Defendants' General Purpose Cards. Unlike customers in most markets for goods and services, merchants cannot buy fewer services from one Defendant's network and buy more services from a competing network at the point of sale, even in the face of higher fees imposed by that network or lower fees offered by competing networks. A merchant's efforts to reduce its purchases of one network's services by encouraging its customers to choose another network's General Purpose Card would violate Defendants' Merchant Restraints. Thus, a merchant may resist a Defendant's high card acceptance fees only by no longer accepting that Defendant's cards. This all-or-nothing choice severely constrains merchants, because dropping any one of the Defendants' General Purpose Cards could alienate customers and lead to significant lost sales. The Merchant Restraints leave merchants less able to avoid Defendants' supracompetitive prices than they otherwise would be.

62. Defendants' ability to discriminate in the prices they charge different types of merchants, unexplained by cost differences, also reflects their market power. For example, American Express targets specific merchant segments for differential pricing based on those merchants' ability to pay and their inability to refuse to accept American Express, a practice American Express calls "value recapture." American Express generally charges higher fees to merchants that rely more on General Purpose Cards for their business, such as T&E merchants, than it charges merchants that traditionally rely less on American Express.

63. This direct evidence of Defendants' market power is consistent with their market share of General Purpose Card transaction volume. American Express, MasterCard, and Visa each has significant market shares in the highly concentrated General Purpose Card network services market. In 2009, the three Defendants together had approximately 94% of the dollar volume of U.S. issued General Purpose Cards. According to Nilson data, Visa's share was approximately 43%, while MasterCard had a 27% share, and American Express had a 24% share. Each of these market shares is consistent with market power in a market with high concentration and other particular characteristics of the General Purpose Cards network services market. For example, the Second Circuit held that MasterCard had market power with a market share of 26%. *U.S.* v. *Visa U.S.A., Inc.,* 344 F.3d at 239–40. In subsequent litigation, American Express itself alleged that MasterCard "exercised market power in the network services market" when MasterCard's "share was approximately 26%," quite similar to American Express' share in the market for General Purpose Card network services to merchants today.

64. Defendants' acceptance among merchants is widespread. Visa and MasterCard are accepted at over 8.2 million merchant locations in the U.S. In 2009, American Express was accepted at 4.9 million merchant locations in the U.S., or about 60% as many as accept Visa and MasterCard. In recent years, American Express has expanded its acceptance at many "everyday spend" merchants, adding, for example, McDonalds (2004), Safeway (2004), Food Lion (2007) and Dollar Tree (2010). Today, many of the merchants that do not accept American Express are small and do not account for significant transaction volume. Indeed, American Express has stated that "as of the end of 2009, our merchant network in the United States accommodated more than 90% of our Cardmembers' general-purpose charge and credit card spending."

65. Among large U.S. retailers that account for a substantial amount of U.S. transaction volume, acceptance of all three Defendants' General Purpose Cards is widespread. For example, 95 of the largest 100 U.S. retailers accept all Defendants' General Purpose Cards. And in many major merchant segments, Defendants' acceptance is nearly universal. All major airlines, for instance, accept all three Defendants' General Purpose Cards.

66. Significant barriers to entry and expansion protect Defendants' market power, and have contributed to Defendants' ability to maintain high prices for years without threat of price competition by new entry or expansion in the market. These barriers to entry and expansion include the prohibitive cost of establishing a physical network over which General Purpose Card transactions can run, developing a widely recognized brand, and

establishing a base of merchants and a base of cardholders. Defendants, who achieved these necessities early in the history of the industry, obtained substantial early mover advantages over prospective subsequent entrants. Successful subsequent entry would be difficult and expensive. In the presence of these barriers, the only successful market entrant since the 1960s has been Discover. Even so, Discover's market share historically has been, and remains, very small. In 2009, Discover's market share based on dollar volume of purchases placed on General Purpose Cards was approximately 6%.

67. Defendants' Merchant Restraints heighten these barriers to competitors' expansion and entry. Merchants' inability to encourage their customers to use less costly General Purpose Card networks makes it even harder for existing or potential competitors to threaten Defendants' market power.

68. Each Defendant also has market power in the T&E market for General Purpose Card network services. Among Defendants, American Express' market power in the T&E market is the most substantial. American Express' share of transaction volume in this market is approximately 37%, while Visa's share is approximately 36% and MasterCard's share is approximately 24%. American Express is the market leader among networks in airline, lodging, and rental car merchant segments, capturing nearly $100 billion in transaction volume. American Express' average card acceptance fee for these three merchant segments was 12% higher than its average fee for all other merchant segments in 2009. American Express' costs in those segments are not proportionally higher than costs in most other segments; in many instances, they are lower. T&E merchant acceptance of American Express is extensive. American Express is the designated card for more business travelers than any other network's card. In fact, American Express accounts for 70% of all expenditures made with corporate cards, which consist largely of T&E merchant purchases. Most merchants in the T&E market have not declined to accept American Express' cards or its Merchant Restraints even when American Express has imposed card acceptance fees that are substantially higher than those set by other General Purpose Card brands, despite these merchants' strong desire not to accept those prices and restraints. Visa and MasterCard also price discriminate successfully against T&E merchants. For all of these reasons, each Defendant has market power in the T&E market.

IX. Harm to Competition

69. Each Defendants' vertical Merchant Restraints are directly aimed at restraining horizontal interbrand competition. Each Defendant's Merchant Restraints harm competition by:

(1) Harming the competitive process and disrupting the proper functioning of the price-setting mechanism of a free market;

(2) restraining merchants from encouraging or pressing each Defendant to compete over card acceptance fees;

(3) insulating each Defendant from competition from rival networks that would otherwise encourage merchants to favor use of those networks' cards;

(4) inhibiting other networks from competing on price at merchants that accept each Defendant's General Purpose Cards;

(5) restraining merchants from promoting payment methods other than each Defendant's General Purpose Cards;

(6) restraining merchants from competing for customers with discounts, promotions, or other forms of lower prices and other benefits enabled by customers' use of a lower cost General Purpose Card or other payment method;

(7) causing increased prices in the form of higher merchant card acceptance fees;

(8) causing increased retail prices for goods and services paid generally by customers;

(9) reducing output of lower-cost payment methods;

(10) stifling innovation in network services and card offerings that would emerge if competitors were forced to compete for merchant business at the point of sale; and

(11) denying consumers information about the relative costs of each Defendant's General Purpose Card usage compared to other card usage that would cause more consumers to choose lower-cost payment methods.

70. Defendants' Merchant Restraints substantially reduce price and non-price competition for merchant use of network services and interfere with price setting at the merchant point of sale. Without the Merchant Restraints, and faced with Defendants' high card acceptance fees, many merchants would encourage customers to use cards offered by the lowest-cost network. Without the Merchant Restraints, each Defendant would compete more vigorously. By imposing the Merchant Restraints, Defendants have insulated themselves from competition with each other and with any other network competitor at the merchant point of sale. The Merchant Restraints reduce incentives for Defendants to offer merchants lower-priced network services that would benefit consumers, because merchants cannot encourage customers to use the less expensive options without violating Defendants' Merchant Restraints. Each Defendant thus can maintain high prices for its network services with confidence that no competitor will take away significant transaction volume through competition in the form of merchant discounts or benefits to consumers to use lower cost payment options. Each Defendant's price for network services to merchants is higher than it would be without the Merchant Restraints.

LXXI. Although other payment methods are not in the product markets relevant to this action, there is some, more attenuated competition between General Purpose Cards and other payment methods. Defendants' Merchant Restraints also restrict the competition that exists and otherwise would emerge from these other payment methods.

LXXII. Because Defendants' Merchant Restraints obstruct merchants from encouraging customers to use less costly payment methods, merchants bear higher costs and their customers face higher retail prices. If a merchant cannot reduce its costs by encouraging cheaper payment methods or by encouraging competition among networks, the merchant will charge higher prices generally to its customers. A customer who pays with lower-cost methods of payment pays more than he or she would if Defendants did not prevent merchants from encouraging network competition at the point of sale. For example, because American Express General Purpose Cards typically are held by more affluent buyers, less affluent purchasers using non-premium General Purpose Cards, debit cards, cash, and checks effectively subsidize part of the cost of expensive American Express card benefits and rewards.

LXXIII. The fees Defendants impose on General Purpose Card transactions are largely not visible to consumers. The Merchant Restraints forbid merchants even from telling consumers simple factual information about what merchants have to pay when consumers use General Purpose Cards. This information could help merchants to encourage customers to choose more cost-effective payment methods. For example, those customers who prefer American Express services and value them at a competitive price could continue to choose them, but others

would not be forced to subsidize this choice by paying higher prices.

LXXIV. Authorities in other countries have taken actions to reduce or eliminate similar Merchant Restraints. In foreign jurisdictions where Defendants' Merchant Restraints have been relaxed, merchants have taken advantage of their ability to encourage customers to use less expensive General Purpose Cards or other payment methods.

LXXV. In short, Defendants' Merchant Restraints remove tools that merchants in a competitive marketplace would use to negotiate lower card acceptance fees, to reduce their costs of doing business, to empower their customers with information to make choices about payment methods, to encourage customers to choose a low-cost payment method, and to keep retail prices lower for their customers. As a result, merchants, consumers, and competition itself are harmed.

X. Violation Alleged

LXXVI. Each Defendant's Merchant Restraints constitute agreements that unreasonably restrain competition in the market for General Purpose Card network services to merchants, and in the market for General Purpose Card network services to T&E merchants, in the United States in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

LXXVII. These agreements have had and will continue to have anticompetitive effects by protecting Defendants from competition over the cost of card acceptance to merchants, and restraining merchants from encouraging customers to use lower-cost payment methods. Defendants' restraints unlawfully insulate Defendants' card acceptance fees from competition, increase costs of payment acceptance to merchants, increase prices, reduce output, harm the competitive process, raise barriers to entry and expansion, and retard innovation.

LXXVIII. These agreements are not reasonably necessary to accomplish any of Defendants' allegedly procompetitive goals. Any procompetitive benefits are outweighed by anticompetitive harm, and there are less restrictive alternatives by which Defendants would be able reasonably to achieve any procompetitive goals.

XI. Request for Relief

Wherefore, Plaintiffs pray that final judgment be entered against each Defendant declaring, ordering, and adjudging that:

a. The aforesaid agreements unreasonably restrain trade and are illegal under Section 1 of the Sherman Act, 15 U.S.C. 1;

b. Each Defendant be permanently enjoined from engaging in, enforcing, carrying out, renewing, or attempting to engage in, enforce, carry out, or renew the agreements in which it is alleged to have engaged, or any other agreement having a similar purpose or effect in violation of Section 1 of the Sherman Act, 15 U.S.C. 1;

c. Each Defendant eliminate and cease enforcing all Merchant Restraints and be prohibited from otherwise acting to restrain trade unreasonably;

d. Each Defendant fund and undertake programs to inform merchants of merchants' rights to encourage customers to use any payment method they choose; and

e. The United States be awarded its costs of this action and such other relief as may be appropriate and as the Court may deem just and proper, and the States be awarded their costs in this action, reasonable attorneys' fees, and such other relief as may be appropriate and as the Court may deem proper.

Dated: 10/4/2010.

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In The United States District Court For The Eastern District of New York

United States of America, State of Connecticut, State of Iowa, State of Maryland, State of Michigan, State of Missouri, State of Ohio, and State of Texas, Plaintiffs, v. *American Express Company, American Express Travel Related Services Company, Inc., Mastercard International Incorporated, and Visa Inc. Defendants.*

Civil Action No. CV–10–4496

(Garaufis, J.)
(Pollak, M.J.)

Competitive Impact Statement

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of The Proceeding

The United States and the States of Connecticut, Iowa, Maryland, Michigan, Missouri, Ohio, and Texas ("Plaintiff States") brought this lawsuit against Defendants American Express Company, American Express Travel Related Services Company, Inc. (collectively, "American Express"), Visa Inc. ("Visa"), and MasterCard International Incorporated ("MasterCard") on October 4, 2010, challenging certain of Defendants' rules, policies, and practices that impede merchants from providing discounts or benefits to promote the use of a competing credit card that costs the merchant less to accept ("Merchant Restraints"). These Merchant Restraints have the effect of suppressing interbrand price and non-price competition in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

Shortly after the filing of the Complaint, the United States filed a proposed Final Judgment with respect to Defendants Visa and MasterCard. The proposed Final Judgment is described in more detail in Section III below. The United States, Plaintiff States, Visa, and MasterCard have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the United States withdraws its consent. Entry of the proposed Final Judgment would terminate this action as to Visa and MasterCard, except that this Court would retain jurisdiction to construe, modify, and enforce the proposed Final Judgment and to punish violations thereof. The case against American Express will continue.

II. Description of The Events Giving Rise to The Alleged Violation

A. Industry Background

Defendants provide network services for general purpose credit and charge cards ("General Purpose Cards"). Visa is the largest provider of network services in the United States and MasterCard is the second-largest, closely followed by American Express.

General Purpose Cards are forms of payment that allow cardholders to make purchases without accessing or reserving the cardholder's funds at the time of sale. General Purpose Cards include credit and charge cards issued to consumers and businesses, but do not include cards that can be used at only one merchant *(e.g.,* department store cards), cards that access funds on deposit (debit cards), or pre-paid cards (*e.g.,* gift cards). Acceptance of General Purpose Cards is widespread among merchants because many of their customers prefer to pay with such Cards, due to convenience, security, the ability to defer payment, and other factors.

Defendants, as providers of General Purpose Card network services, operate the infrastructure necessary to authorize, settle, and clear payments made with their General Purpose Cards. Millions of merchants around the United States that accept General Purpose Cards are consumers of network services.

The typical transaction involving a Visa or MasterCard General Purpose Card involves several steps. When a cardholder presents a card to a merchant, the bank that issued the card (the "issuing bank" or "issuer") authorizes the transaction using the card's network. Then the merchant's bank (the "acquiring bank") pays the merchant the amount of the purchase, minus a fee (the "merchant discount fee" or "card acceptance fee") that is shared among the acquiring bank, the network, and the issuing bank. The acquiring bank and the network collect relatively small portions of the merchant discount; the bulk of the merchant discount is collected by the issuing bank in the form of an "interchange fee." Interchange fees are set by the network and vary based on many factors such as the merchant's industry, the merchant's annual charge levels, and the type of card used in the transaction (*e.g.,* rewards card vs. non-rewards card).

American Express issues most of its General Purpose Cards directly to cardholders and generally provides network services directly to merchants. For each transaction, American Express imposes a merchant discount fee, which is typically a percentage of the transaction price. American Express has for many years maintained the highest merchant fees of any network, and American Express card acceptance often costs merchants substantially more than acceptance of other General Purpose Cards.

When merchants agree to accept a particular brand of General Purpose Card, they must use the network services provided by that brand. Merchants cannot reasonably replace General Purpose Card network services with other services or reduce usage of these network services, even if such network services are substantially more expensive for merchants relative to services that enable other payment methods. The challenged Merchant

Restraints obstruct the ability of a merchant to vary the amount of network services it buys in response to changes in the merchant's cost of acceptance by encouraging customers at the point of sale to use less-costly General Purpose Cards or other methods of payment.

B. The Challenged Merchant Restraints

When merchants agree to accept Visa or MasterCard General Purpose Cards, they sign a contract agreeing to abide by the rules promulgated by the network, including the Merchant Restraints at issue in this case. Merchants face penalties, including termination of their contracts, if they violate these rules.

The Visa Merchant Restraints challenged in the Complaint prohibit a merchant from offering a discount at the point of sale to a customer that chooses to use an American Express, Discover, or MasterCard General Purpose Card instead of a Visa General Purpose Card. Visa's rules do not allow discounts for other General Purpose Cards, unless such discounts are equally available for Visa transactions. See Complaint ¶ 26 (citing Visa International Operating Regulations at 445 (April 1, 2010) (Discount Offer—U.S. Region 5.2.D.2)).

The MasterCard Merchant Restraints challenged in the Complaint prohibit a merchant from "engag[ing] in any acceptance practice that discriminates against or discourages the use of a [MasterCard] Card in favor of any other acceptance brand." *See* Complaint ¶ 27 (quoting MasterCard Rule 5.11.1). This means that merchants cannot offer discounts or other benefits to persuade customers to use an American Express, Discover, or Visa General Purpose Card instead of a MasterCard General Purpose Card. *Id.* MasterCard does not allow merchants to favor competing card brands. *Id.*

The challenged Merchant Restraints imposed by Defendants deter or obstruct merchants from freely promoting interbrand competition among networks by offering customers discounts, other benefits, or information to encourage them to use a less-expensive General Purpose Card brand or other payment method. The Merchant Restraints block merchants from taking steps to influence customers and foster competition among networks at the point of sale, such as: promoting a less-expensive General Purpose Card brand more actively than any other brand; offering customers a discount or other benefit for using a particular General Purpose Card that costs the merchant less; posting a sign expressing a preference for another General Purpose Card brand; prompting customers at the point of sale to use another General Purpose Card brand in their wallets; posting the signs or logos of General Purpose Card brands that cost less to the merchant more prominently than signs or logos of more costly brands; or posting truthful information comparing the relative costs of different General Purpose Card brands.[1]

C. The Relevant Markets

The Complaint alleges two distinct relevant product markets: the market for General Purpose Card network services to merchants, and the market for General Purpose Card network services to travel and entertainment merchants ("T&E market"). In each case, the relevant geographic market is the United States.

1. The General Purpose Card Network Services Market

A relevant product market for this case is the provision of General Purpose Card network services to merchants. For such merchants, there are no reasonable substitutes for network services. Competition from other payment methods would not be sufficient to prevent a hypothetical monopolist of General Purpose Card network services from profitably maintaining supracompetitive prices and terms for network services provided to merchants over a sustained period of time or from imposing anticompetitive conditions on merchants.

Defendants possess market power in the network services market. In 2003, the United States Court of Appeals for the Second Circuit affirmed that Visa and MasterCard hold market power in a General Purpose Card network services market. *United States* v. *Visa U.S.A., Inc.,* 344 F.3d 229, 238–39 (2d Cir. 2003). American Express' share of General Purpose Card transaction volume today is close to MasterCard's, and similar to MasterCard's share at the time of the Second Circuit's decision.

Because of the Merchant Restraints, a merchant is obstructed in its ability to reduce its purchases of one network's services by encouraging its customers to choose a competing network's General Purpose Card. A merchant may resist a Defendant's high card acceptance fees only by no longer accepting that Defendant's General Purpose Cards. This all-or-nothing choice does not effectively constrain Defendants' market power because merchants cannot refuse to accept these General Purpose Cards without alienating customers and losing significant sales. The Merchant Restraints leave merchants less able to avoid Defendants' supracompetitive prices than they otherwise would be.

Defendants' ability to discriminate in the prices they charge different types of merchants, unexplained by cost differences, also reflects their market power. Defendants target specific merchant segments for differential pricing based on those merchants' ability to pay and their inability to refuse to accept Defendants' General Purpose Cards.

Significant barriers to entry and expansion protect Defendants' market power, and have contributed to Defendants' ability to maintain high prices for years without threat of price competition by new entry or expansion in the market. Barriers to entry and expansion include the prohibitive cost of establishing a physical network over which General Purpose Card transactions can run, developing a widely recognized brand, and establishing a base of merchants and a base of cardholders. Defendants, which achieved these necessities early in the history of the industry, hold substantial early-mover advantages over prospective subsequent entrants. Successful entry today would be difficult, time consuming, and expensive.

2. The T&E Market

Another relevant market consists of General Purpose Card network services provided to merchants in travel and entertainment businesses (*e.g.,* merchants offering air travel, lodging, or rental cars). The T&E market is what is sometimes termed a "price discrimination market." Merchants in this market share distinct characteristics in their usage of General Purpose Card network services, can be readily identified by Defendants, and are subject to price discrimination by Defendants. Price discrimination occurs when a seller charges different customers (or groups of customers) different prices for the same services, when those different prices are not based on different costs of serving those customers.

Here, Defendants charge merchants in the T&E sector higher fees than they charge most other merchants. The high fees to T&E merchants are not based on Defendants' higher costs of serving their T&E merchants. Each Defendant can

[1] Federal law mandates that networks permit merchants to offer discounts for cash transactions. Additionally, the new Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, by adding section 920 to the Electronic Fund Transfer Act, 15 U.S.C. 1693 *et seq.,* now forbids networks from prohibiting merchants from offering a discount for an entire payment method category, such as a discount for use of any debit card. All General Purpose Card networks operate under these laws. The Complaint does not seek relief relating to these two types of discounting.

charge T&E merchants high fees because those merchants are even less able to substitute away to other networks than other merchants.

Competition from other payment methods would not be sufficient to prevent a hypothetical monopolist in the T&E market from either profitably maintaining supracompetitive prices and terms for network services to T&E merchants over a sustained period of time or imposing anticompetitive conditions on T&E merchants in that market. A hypothetical monopolist could price discriminate profitably against T&E merchants even if other merchants were paying lower prices for network services.

Each Defendant holds market power in the T&E market. As with the market for General Purpose Card network services, discussed above, significant barriers to entry and expansion protect the market for network services to T&E merchants.

D. The Competitive Effects of the Alleged Violation

The Complaint alleges that Defendants' Merchant Restraints suppress price and non-price competition by prohibiting a merchant from offering discounts or other benefits to customers for the use of a particular General Purpose Card. These prohibitions allow Defendants to maintain high prices for network services with confidence that no competitor will take away significant transaction volume through competition in the form of merchant discounts or benefits to customers to use lower cost payment options. Defendants' prices for network services to merchants are therefore higher than they would be without the Merchant Restraints.

Absent the Merchant Restraints, merchants would be free to use various methods, such as discounts or non-price benefits, to encourage customers to use the brands of General Purpose Cards that impose lower costs on the merchants. In order to retain merchant business, the networks would need to respond to merchant preferences by competing more vigorously on price and service to merchants. The increased competition among networks would lead to lower merchant fees and better service terms.

Because the Merchant Restraints result in higher merchant costs, and merchants pass these costs on to consumers, retail prices are higher generally for consumers. Moreover, a customer who pays with lower-cost methods of payment pays more than he or she would if Defendants did not prevent merchants from encouraging network competition at the point of sale. For example, because certain types of premium General Purpose Cards tend to be held by more affluent buyers, less affluent purchasers using non-premium General Purpose Cards, debit cards, cash, and checks effectively subsidize part of the cost of expensive premium card benefits and rewards enjoyed by those cardholders.

The Complaint also alleges that the Merchant Restraints have had a number of other anticompetitive effects, including reducing output of lower-cost payment methods, stifling innovation in network services and card offerings, and denying information to customers about the relative costs of General Purpose Cards that would cause more customers to choose lower-cost payment methods. Defendants' Merchant Restraints also have heightened the already high barriers to entry and expansion in the network services market. Merchants' inability to encourage their customers to use less-costly General Purpose Card networks makes it more difficult for existing or potential competitors to threaten Defendants' market power.

Finally, the Complaint alleges that these anticompetitive effects are not outweighed by any allegedly procompetitive goals of the Merchant Restraints, and there are less restrictive alternatives by which Defendants would be able reasonably to achieve any procompetitive goals.

III. Explanation of The Proposed Final Judgment

The prohibitions and required conduct in the proposed Final Judgment achieve all the relief sought from Visa and MasterCard in the Complaint, and thus fully resolve the competitive concerns raised by those Defendants' Merchant Restraints challenged in this lawsuit.

The proposed Final Judgment prohibits Visa and MasterCard from adopting, maintaining, or enforcing any rule, or entering into or enforcing any agreement, that prevents any merchant from: (1) Offering the customer a price discount, rebate, free or discounted product or service, or other benefit if the customer uses a particular brand or type of General Purpose Card or particular form of payment; (2) expressing a preference for the use of a particular brand or type of General Purpose Card or particular form of payment; (3) promoting a particular brand or type of General Purpose Card or particular form of payment through posted information; through the size, prominence, or sequencing of payment choices; or through other communications to the customer; or (4) communicating to customers the reasonably estimated or actual costs incurred by the merchant when a customer pays with a particular brand or type of General Purpose Card. Proposed Final Judgment § IV.A.

For purposes of the Final Judgment, the "brand" of a General Purpose Card refers to its network (*e.g.,* American Express, Discover, MasterCard, or Visa). *Id.* § II.3. The "type" of a General Purpose Card refers to the network's card categories, such as premium cards (*e.g.,* a "Visa Signature Card" or a "World MasterCard"), rewards cards, or traditional cards. *Id.* § II.16. The term "form of payment" is defined as any means by which customers pay for goods and services, including cash, a check, a debit card, a prepaid card, or other means. *Id.* § II.7. The definition includes particular brands or types of debit cards.

The purpose of Section IV.A is to free merchants to influence the method of payment used by their customers by providing them information, discounts, benefits, and choices at the point of sale. For example, merchants will be able to encourage customers, using the methods described in Section IV.A, to use one General Purpose Card instead of another, to use one type of General Purpose Card instead of another (such as by offering a discount for the use of a cheaper non-rewards Visa card instead of a premium-level Visa rewards card), or to use a different General Purpose Card or form of payment than the General Purpose Card the customer initially presents to the merchant. Merchants will also be able to encourage the use of any other payment form, such as cash, check, or debit cards, by using the methods described in Section IV.A.

To clarify the scope of the conduct prohibited by the proposed Final Judgment, Section IV.B provides that Visa and MasterCard would not violate the Final Judgment if they established agreements with merchants, pursuant to which: (1) The merchant agrees to accept only one brand of General Purpose Card; (2) the merchant encourages customers to use co-branded or affinity General Purpose Cards with the merchant's own brand on the card, and not other General Purpose Cards; or (3) the merchant encourages customers to use only one brand of General Purpose Card.[2] The General Purpose Card networks likely will compete with

[2] Visa and MasterCard may enter into the latter type of agreement subject to certain conditions: (a) The agreement is individually negotiated with the merchant and is not part of a standard merchant contract; and (b) the merchant's acceptance of the Defendant's General Purpose Card is unrelated to, and not conditioned on, the merchant's entry into the agreement. *Id.* § IV.B.3.

each other to enter these types of agreements, to the benefit of merchants and consumers.

Section IV.B also allows Visa and MasterCard to have a network rule that prohibits a merchant from encouraging customers to use the General Purpose Cards of one issuing bank instead of those of another issuing bank.

Section IV.C allows Visa and MasterCard to have a network rule that prohibits a merchant from disparaging the network's brand, as long as that rule does not restrict a merchant's ability to encourage customers to use other General Purpose Cards or forms of payment.

To facilitate merchants' ability to encourage customers to use particular General Purpose Cards, Section IV.D prevents Visa and MasterCard from denying merchants access to information from their acquiring banks about the cost of each type of General Purpose Card.

Section V of the proposed Final Judgment requires Visa and MasterCard, within five days of entry of the Judgment, to "delete, discontinue, and cease to enforce" any rule that would be prohibited by Section IV of the Final Judgment. *Id.* § V.A. Sections V.B and V.C require Visa and MasterCard to make specific changes to their rules and regulations governing merchant conduct to implement the requirements of Section IV. Section V also directs Visa and MasterCard, through their acquiring banks, to notify merchants of the rules changes mandated by the Final Judgment, and of the fact that merchants are now permitted to encourage customers to use a particular General Purpose Card or form of payment. Acquiring banks must also provide merchants with a copy of the Final Judgment. Finally, Section V requires Visa and MasterCard to adopt rules that prohibit their acquiring banks from adopting, maintaining, or enforcing any rule that would be inconsistent with the prohibitions of Section IV of the Final Judgment.

To aid in enforcement, the proposed Final Judgment requires Visa and MasterCard to notify the Department of Justice of any future rule change that limits or restrains "how Merchants accept, process, promote, or encourage use of Forms of Payment other than General Purpose Cards or of General Purpose Cards bearing the Brand of another General Purpose Card Network." *Id.* § V.F.

The proposed Final Judgment expressly states that there is no limitation on the United States' (or the Plaintiff States') ability to investigate and bring an antitrust enforcement action in the future concerning any rule of either Visa or MasterCard, including any rule either of them may adopt in the future. *Id.* § VIII. Merchants that currently accept only Visa or MasterCard, or both, will benefit immediately from the Final Judgment by having the freedom to encourage their customers to choose the merchants' preferred method of payment. Merchants will have several new options available to accomplish this, such as offering customers a price discount, a rebate, a free product or service, rewards program points, or other benefits; placing signs that encourage customers to use particular payment methods; prompting customers to use particular General Purpose Cards or other forms of payment; or communicating to customers the costs of particular forms of payment.

Merchants that accept American Express cards, including the vast majority of the major retailers in the United States, will be unable to influence customers' payment methods because the anticompetitive American Express Merchant Restraints will continue to constrain those merchants pending the outcome of this litigation. American Express stands as the last obstacle to achieving the full benefits of competition now suppressed by the challenged Merchant Restraints. The United States will continue this case against American Express to obtain complete relief for the affected merchants, and for the benefit of their customers.

IV. Remedies Available To Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any private lawsuit that may be brought against Defendants.

V. Procedures Available For Modification of The Proposed Final Judgment

The United States, Plaintiff States, Visa, and MasterCard have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: John R. Read, Chief, Litigation III Section, Antitrust Division, United States Department of Justice, 450 Fifth Street, NW., Suite 4000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives To The Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, proceeding to a full trial on the merits against Visa and MasterCard. The United States is satisfied, however, that the prohibitions and requirements contained in the proposed Final Judgment will fully address the competitive concerns set forth in the Complaint against Visa and MasterCard. The proposed Final Judgment achieves all or substantially all of the relief the United States would have obtained through litigation against Visa and MasterCard, and will avoid the delay, risks, and costs of a trial on the merits of the Complaint.[3]

[3] The Antitrust Division has investigated a number of Defendants' other merchant rules, including the prohibition on surcharging, that are not challenged in this Complaint. Tunney Act review is limited to the scope of the complaint and the court may not "reach beyond the complaint to evaluate claims that the government did not make

Continued

VII. Standard of Review Under The APPA For The Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the United States is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States* v. Microsoft Corp., 56 F.3d 1448, 1461 (DC Cir. 1995); *see also United States* v. *Alex Brown & Sons, Inc.,* 963 F. Supp. 235, 238 (S.D.N.Y. 1997) (noting that the court's role in the public interest determination is "limited" to "ensur[ing] that the resulting settlement is 'within the reaches of the public interest' ") (quoting *Microsoft,* 56 F.3d at 1460), *aff'd sub nom. United States* v. *Bleznak,* 153 F.3d 16 (2d Cir. 1998); *United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D. DC 2007) (assessing public interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* 2009–2 Trade Cas. (CCH) ¶76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3, (D. DC Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.").[4]

As the United States Court of Appeals for the District of Columbia Circuit has held, a court considers under the APPA, among other things, the relationship between the remedy secured and the specific allegations set forth in the United States' complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *Alex Brown,* 963 F. Supp. at 238; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D. DC 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest*." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree. *Bechtel,* 648 F.2d at 666 (emphasis added) (citations omitted).[5]

In determining whether a proposed settlement is in the public interest, a district court "must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations." *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be "deferential to the government's predictions as to the effect of the proposed remedies"); *Alex Brown,* 963 F. Supp. at 239 (stating that the court should give "due deference to the Government's evaluation of the case and the remedies available to it"); *United States* v. *Archer-Daniels-Midland* Co., 272 F. Supp. 2d 1, 6 (D. DC 2003) (noting that the court should grant due respect to the United States' "prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case").

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' " *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D. DC 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States "need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft,* 56 F.3d at 1459; *see also InBev,* 2009 U.S.

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and to inquire as to why they were not made." *United States* v. *Microsoft,* 56 F.3d 1448, 1459–60 (DC Cir. 1995); *see also infra* § VII, at 20. The proposed Final Judgment contains a clause preserving the rights of the United States and providing that "[n]othing in this Final Judgment shall limit the right of the United States or of the Plaintiff States to investigate and bring actions to prevent or restrain violations of the antitrust laws concerning any Rule of MasterCard or Visa, including any current Rule and any Rule adopted in the future." Proposed Final Judgment § VIII. At this time, the United States takes no position on whether any Visa or MasterCard rule not challenged in the Complaint is in violation of the antitrust laws.

[4] The 2004 amendments substituted "shall" for "may" in directing relevant factors for the court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

[5] *Cf. BNS,* 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"); *see generally Microsoft,* 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' ").

Dist. LEXIS 84787, at *20 ("the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged"). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As the United States District Court for the District of Columbia recently confirmed in *SBC Communications,* courts "cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power." *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. 16(e)(2). This language effectuates what Congress intended when it enacted the Tunney Act in 1974. As Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's "scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings." *SBC Commc'ns,* 489 F. Supp. 2d at 11.[6]

[6] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D. DC 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances."); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) ("Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.").

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment. Respectfully submitted, Craig W. Conrath, Michael G. Dashefsky, Justin M. Dempsey, Mark H. Hamer, Gregg I. Malawer, Bennett J. Matelson, Anne Newton McFadden, Rachel L. Zwolinski.

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Dated: October 4, 2010

In The United States District Court For The Eastern District of New York

United States of America, State of Connecticut, State of Iowa, State Of Maryland, State of Michigan, State of Missouri, State of Ohio, and State of Texas, Plaintiffs, v. *American Express Company, American Express Travel Related Services Company, Inc., Mastercard International Incorporated, and Visa Inc. Defendants.*

Civil Action No. CV–10–4496

(Garaufis, J.)
(Pollak, M.J.)

[Proposed] Final Judgment as to Defendants Mastercard International Incorporated and Visa Inc.

Whereas, Plaintiffs, the United States of America and the States of Connecticut, Iowa, Maryland, Michigan, Missouri, Ohio, and Texas filed their Complaint on October 4, 2010, alleging that Defendants each adopted rules that restrain Merchants from encouraging consumers to use preferred payment forms, harming competition and consumers in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, and Plaintiffs and Defendants MasterCard International Incorporated and Visa Inc., by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law;

Whereas, Defendants MasterCard and Visa have not admitted and do not admit either the allegations set forth in the Complaint or any liability or wrongdoing;

And whereas, Defendants MasterCard and Visa agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, without this Final Judgment constituting any evidence against or admission by Defendants MasterCard or Visa regarding any issue of fact or law, and upon consent of MasterCard and Visa, it is *ordered, adjudged and decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over MasterCard and Visa. The Complaint states a claim upon which relief may be granted against MasterCard and Visa under Section 1 of the Sherman Act, as amended, 15 U.S.C. 1.

II. Definitions

As used in this Final Judgment:

1. "*Acquiring Bank*" means a Person authorized by MasterCard or Visa to enter into agreements with Merchants to accept MasterCard's or Visa's General Purpose Cards as payment for goods or services.

2. "*American Express*" means American Express Company, a New York corporation with its principal place of business in New York, New York, and American Express Travel Related Services Company, Inc., a Delaware corporation with its principal place of business in New York, New York, their successors and assigns, and their subsidiaries (whether partially or wholly owned), divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

3. "*Brand*" means the brand or mark of a General Purpose Card Network.

4. "*Customer*" means a Person that pays for goods or services.

5. "*Department of Justice*" means the United States Department of Justice, Antitrust Division.

6. "*Discover*" means Discover Financial Services, a Delaware corporation with its principal place of business in Riverwoods, Illinois, its successors and assigns, and its subsidiaries (whether partially or wholly owned), divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

7. "*Form of Payment*" means cash, a check, a debit card, a prepaid card, or any other means by which Customers pay for goods or services, and includes particular brands (*e.g.,* Star, NYCE) or types (*e.g.,* PIN debit) of debit cards or other means of payment.

8. "*General Purpose Card*" means a credit or charge card issued pursuant to Rules of a General Purpose Card Network that enables consumers to make purchases from unrelated Merchants without accessing or reserving funds, regardless of any other functions the card may have.

9. "*General Purpose Card Network*" means any Person that directly or

indirectly assembles a group of unrelated Merchants to accept and a group of unrelated consumers to make purchases with General Purpose Cards bearing the Person's Brand, and includes General Purpose Card Networks such as Visa, MasterCard, American Express, and Discover.

10. "*Issuing Bank*" means a Person authorized by MasterCard or Visa to enter into agreements with cardholders for the use of that Defendant's General Purpose Cards for payment at a Merchant.

11. "*MasterCard*" means MasterCard International Incorporated, a Delaware corporation with its principal place of business in Purchase, New York, its successors and assigns, and its subsidiaries (whether partially or wholly owned), divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

12. "*Merchant*" means a Person that accepts MasterCard's or Visa's General Purpose Cards as payment for goods or services.

13. "*Person*" means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental.

14. "*Plaintiff States*" means the States of Connecticut, Iowa, Maryland, Michigan, Missouri, Ohio, and Texas.

15. "*Rule*" means any rule, bylaw, policy, standard, guideline, or practice applicable to Merchants in the United States.

16. "*Type*" means a category of General Purpose Cards, including but not limited to traditional cards, rewards cards, or premium cards (*e.g.,* a "Visa Signature Card" or a "World MasterCard").

17. "*Visa*" means Visa Inc., a Delaware corporation with its principal place of business in San Francisco, California, its successors and assigns, and its subsidiaries (whether partially or wholly owned), divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees, but shall not include Visa Europe Limited and its wholly owned affiliates.

18. The terms "and" and "or" have both conjunctive and disjunctive meanings.

III. Applicability

This Final Judgment applies to MasterCard and Visa and all other Persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Prohibited Conduct

A. The purpose of this Section IV is to allow Merchants to attempt to influence the General Purpose Card or Form of Payment Customers select by providing choices and information in a competitive market. This Final Judgment should be interpreted to promote such efforts and not limit them. Accordingly, neither MasterCard nor Visa shall adopt, maintain, or enforce any Rule, or enter into or enforce any agreement that directly or indirectly prohibits, prevents, or restrains any Merchant in the United States from

1. Offering the Customer a discount or rebate, including an immediate discount or rebate at the point of sale, if the Customer uses a particular Brand or Type of General Purpose Card, a particular Form of Payment, or a Brand or Type of General Purpose Card or a Form of Payment other than the General Purpose Card the Customer initially presents;

2. offering a free or discounted product if the Customer uses a particular Brand or Type of General Purpose Card, a particular Form of Payment, or a Brand or Type of General Purpose Card or a Form of Payment other than the General Purpose Card the Customer initially presents;

3. offering a free or discounted or enhanced service if the Customer uses a particular Brand or Type of General Purpose Card, a particular Form of Payment, or a Brand or Type of General Purpose Card or a Form of Payment other than the General Purpose Card the Customer initially presents;

4. offering the Customer an incentive, encouragement, or benefit for using a particular Brand or Type of General Purpose Card, a particular Form of Payment, or a Brand or Type of General Purpose Card or a Form of Payment other than the General Purpose Card the Customer initially presents;

5. expressing a preference for the use of a particular Brand or Type of General Purpose Card or a particular Form of Payment;

6. promoting a particular Brand or Type of General Purpose Card or a particular Form or Forms of Payment through posted information, through the size, prominence, or sequencing of payment choices, or through other communications to a Customer;

7. communicating to a Customer the reasonably estimated or actual costs incurred by the Merchant when a Customer uses a particular Brand or Type of General Purpose Card or a particular Form of Payment or the relative costs of using different Brands or Types of General Purpose Cards or different Forms of Payment; or

8. engaging in any other practices substantially equivalent to the practices described in Sections IV.A.1 through IV.A.7 of this Final Judgment.

B. Subject to compliance with the antitrust laws, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and any other applicable state or federal law, nothing in this Final Judgment shall prohibit MasterCard or Visa from

1. Enforcing existing agreements or entering into agreements pursuant to which a Merchant selects General Purpose Cards bearing the Defendant's Brand as the only General Purpose Cards the Merchant will accept as payment for goods and services;

2. enforcing existing agreements or entering into agreements pursuant to which a Merchant agrees that it will encourage Customers to use co-branded or affinity General Purpose Cards bearing both the Defendant's Brand and the co-brand or affinity partner's name, logo, or brand as payment for goods and services and will not encourage Customers to use General Purpose Cards bearing the Brand of any other General Purpose Card Network;

3. enforcing existing agreements or entering into agreements pursuant to which a Merchant agrees (i) that it will encourage Customers, through practices enumerated in Sections IV.A.1 through IV.A.8 of this Final Judgment, to use General Purpose Cards bearing the Defendant's Brand as payment for goods and services, and (ii) that it will not use one or more practices enumerated in Sections IV.A.1 thorough IV.A.8 of this Final Judgment to encourage Customers to use General Purpose Cards bearing any other Person's Brand as payment for goods and services; *provided that* (a) any such agreement is individually negotiated with the Merchant and is not a standard agreement or part of a standard agreement generally offered by the Defendant to multiple Merchants, and (b) the Merchant's acceptance of the Defendant's General Purpose Cards as payment for goods and services is unrelated to and not conditioned upon the Merchant's entry into any such agreement;

4. adopting, maintaining, and enforcing Rules that prohibit Merchants from encouraging Customers to pay for goods or services using one of its General Purpose Cards issued by one particular Issuing Bank rather than by another of its General Purpose Cards issued by any other Issuing Bank.

C. Subject to Section IV.A of this Final Judgment, nothing in this Final

Judgment shall prohibit MasterCard or Visa from adopting, maintaining, and enforcing Rules that prohibit Merchants from disparaging its Brand.

D. Neither MasterCard nor Visa shall adopt, maintain, or enforce any Rule, or enter into or enforce any agreement, that prohibits, prevents, restrains, deters, or inhibits an Acquiring Bank from supplying a Merchant, on a transaction-by-transaction or other basis, information regarding the costs or fees the Merchant would incur in accepting a General Purpose Card, including a particular Type of General Purpose Card, presented by the Customer as payment for that Customer's transaction.

V. Required Conduct

A. Within five business days after entry of this Final Judgment, MasterCard and Visa shall each delete, discontinue, and cease to enforce in the United States any Rule that it would be prohibited from adopting, maintaining, or enforcing pursuant to Section IV of this Final Judgment.

B. Within five business days after entry of this Final Judgment, Visa shall modify the following portion of its Visa International Operating Regulations "Discount Offer—U.S. Region 5.2.D.2" as follows:

Current language: Discount Offer—U.S. Region 5.2.D.2.

In the U.S. Region, any purchase price advertised or otherwise disclosed by the Merchant must be the price associated with the use of a Visa Card or Visa Electron Card.

A U.S. Merchant may offer a discount as an inducement for a Cardholder to use a means of payment that the Merchant prefers, provided that the discount is:

- Clearly disclosed as a discount from the standard price
- Non-discriminatory, as between a Cardholder who pays with a Visa Card and a cardholder who pays with a "comparable card"

A "comparable card" for purposes of this rule is any other branded, general purpose payment card that uses the cardholder's signature as the primary means of cardholder authorization (*e.g.,* MasterCard, Discover, American Express). Any discount made available to cardholders who pay with "comparable cards" must also be made available to Cardholders who wish to pay with Visa Cards. Any discount made available to a Cardholder who pays with a Visa Card is not required to be offered to cardholders who pay with "comparable cards."

Modified language: Discount Offer—U.S. Region 5.2.D.2

A U.S. Merchant may request or encourage a Cardholder to use a means of payment other than a Visa Card or a Visa Card of a different product type (*e.g.,* Visa Classic Card, Visa Traditional Rewards Card, Visa Signature Card) than the Visa Card the consumer initially presents. Except where prohibited by law, the Merchant may do so by methods that include, but are not limited to:

- Offering the consumer an immediate discount from the Merchant's list, stated, or standard price, a rebate, a free or discounted product or service, or any other incentive or benefit if the consumer uses a particular general purpose payment card with an acceptance brand other than a Visa Card or other particular means of payment
- Offering the consumer an immediate discount from the Merchant's list, stated, or standard price, a rebate, a free or discounted product or service, or any other incentive or benefit if the consumer, who initially presents a Visa Card, uses instead another general purpose payment card or another means of payment
- Expressing a preference for the use of a particular general purpose payment card or means of payment
- Promoting the use of a particular general purpose payment card with an acceptance brand other than Visa or means of payment through posted information, through the size, prominence, or sequencing of payment choices, or through other communications to consumers
- Communicating to consumers the reasonably estimated or actual costs incurred by the Merchant when a consumer uses a particular general purpose payment card or means of payment or the relative costs of using different general purpose payment cards or means of payment.

C. Within five business days after entry of this Final Judgment, MasterCard shall modify its *MasterCard Rules,* Rule 5.11.1 "Discrimination" in the United States as follows:

Current language: A Merchant must not engage in any acceptance practice that discriminates against or discourages the use of a Card in favor of any other acceptance brand.

Modified language: A Merchant may request or encourage a customer to use a payment card with an acceptance brand other than MasterCard or other form of payment or a Card of a different product type (*e.g.,* traditional cards, premium cards, rewards cards) than the Card the consumer initially presents.

Except where prohibited by law, it may do so by methods that include, but are not limited to: (a) Offering the customer an immediate discount from the Merchant's list, stated, or standard price, a rebate, a free or discounted product or service, or any other incentive or benefit if the customer uses a particular payment card with an acceptance brand other than MasterCard or other particular form of payment; (b) offering the customer an immediate discount from the Merchant's list, stated, or standard price, a rebate, a free or discounted product or service, or any other incentive or benefit if the customer, who initially presents a MasterCard, uses instead another payment card or another form of payment; (c) expressing a preference for the use of a particular payment card or form of payment; (d) promoting the use of a particular general purpose payment card with an acceptance brand other than MasterCard or the use of a particular form or forms of payment through posted information, through the size, prominence, or sequencing of payment choices, or through other communications to customers (provided that merchants will abide by MasterCard's trademark standards relating to the display of its marks); or (e) communicating to customers the reasonably estimated or actual costs incurred by the Merchant when a customer uses particular payment cards or forms of payment or the relative costs of using different general purpose payment cards or forms of payment.

D. Within ten business days after entry of this Final Judgment, MasterCard and Visa shall each furnish to the Department of Justice and the Plaintiff States an affidavit affirming that it has made the specific changes to its Rules required by Sections V.B (for Visa) and V.C (for MasterCard) of this Final Judgment and describing any additional changes, if any, it made pursuant to Section V.A of this Final Judgment.

E. MasterCard and Visa shall each take the following actions to ensure that Merchants that accept its General Purpose Cards as payment for goods or services (i) are notified of this Final Judgment and the Rules changes MasterCard and Visa make pursuant to this Final Judgment; and (ii) are not restricted, discouraged, or prevented from engaging in any of the practices enumerated in Sections IV.A.1 through IV.A.8 of this Final Judgment:

1. Within ten business days after entry of this Final Judgment, MasterCard and Visa shall each furnish to the Department of Justice and the Plaintiff States, for the approval of the

Department of Justice, a proposed form of written notification to be provided to Acquiring Banks for distribution to Merchants:

a. describing the Rules changes each made pursuant to this Final Judgment; and

b. informing Merchants that they are permitted to engage in any of the practices enumerated in Sections IV.A.1 through IV.A.8 of this Final Judgment.

Within five business days after receiving the approval of the Department of Justice, the Defendant shall direct its Acquiring Banks to furnish to each of the Merchants in the United States with which the Acquiring Banks have entered an agreement to accept the Defendant's General Purpose Cards as payment for goods or services (i) a paper or electronic copy of the approved notification and (ii) a paper or electronic copy of this Final Judgment (or an Internet link to this Final Judgment). MasterCard and Visa shall direct the Acquiring Banks to provide such information in their next billing statement or within thirty days of their receipt of MasterCard's or Visa's direction, whichever is shorter.

2. Within five business days after entry of this Final Judgment, MasterCard and Visa shall each adopt a Rule forbidding its Acquiring Banks from adopting, maintaining, or enforcing Rules with respect to MasterCard or Visa General Purpose Cards that the Defendant would be prohibited from adopting, maintaining, or enforcing pursuant to Section IV of this Final Judgment.

F. MasterCard and Visa shall each notify the Department of Justice and the Plaintiff States, within five business days of such adoption or modification, if it adopts a new Rule that limits or restrains, or modifies an existing Rule in a manner that limits or restrains how Merchants accept, process, promote, or encourage use of Forms of Payment other than General Purpose Cards or of General Purpose Cards bearing the Brand of another General Purpose Card Network.

VI. Compliance Inspection

I. For purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the Department of Justice, including consultants and other persons retained by the Department of Justice, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to MasterCard or Visa, be permitted:

A. access during the Defendant's office hours to inspect and copy, or at the option of the United States, to require the Defendant to provide to the United States and the Plaintiff States hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of the Defendant, relating to any matters contained in this Final Judgment; and

B. to interview, either informally or on the record, the Defendant's officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by the Defendant.

II. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, MasterCard and/or Visa shall submit written reports or respond to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested. Written reports authorized under this paragraph may, at the sole discretion of the United States, require a Defendant to conduct, at its cost, an independent audit or analysis relating to any of the matters contained in this Final Judgment.

III. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of (i) the executive branch of the United States or (ii) the Plaintiff States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IV. If at the time information or documents are furnished by a Defendant to the United States and the Plaintiff States, the Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and the Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States and Plaintiff States shall give the Defendant ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

VIII. No Limitation on Government Rights

Nothing in this Final Judgment shall limit the right of the United States or of the Plaintiff States to investigate and bring actions to prevent or restrain violations of the antitrust laws concerning any Rule of MasterCard or Visa, including any current Rule and any Rule adopted in the future.

IX. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

X. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Court approval subject to procedures set forth in the Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

Date: _____

_____

United States District Judge

[FR Doc. 2010–25655 Filed 10–12–10; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0011]

Keystone Steel and Wire Company; Grant of a Permanent Variance

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of a grant of a permanent variance.

SUMMARY: This notice announces the grant of a permanent variance to Keystone Steel and Wire Company. The permanent variance addresses the provisions that regulate occupational exposure to lead and arsenic, specifically paragraph (h)(2)(i) of 29 CFR 1910.1025 and paragraph (k)(2) of 29 CFR 1910.1018. These provisions prohibit the use of compressed air to clean floors and other surfaces where lead and arsenic particulates accumulate. As an alternative to complying with these provisions, Keystone Steel and Wire Company may instead comply with the conditions listed in this grant; these alternative conditions regulate the use of compressed air in combination with a vacuum-containment system to remove particulates containing lead and arsenic from inside crane-motor housings during periodic maintenance operations. Accordingly, OSHA finds that these alternative conditions protect workers at least as well as the requirements specified by 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2). This permanent variance applies only in Federal OSHA enforcement jurisdictions.

DATES: The effective date of the permanent variance is October 13, 2010.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries. For general information and press inquiries about this notice, contact MaryAnn Garrahan, Acting Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999.

Technical information. For technical information about this notice, contact Stefan Weisz, Office of Technical Programs and Coordination Activities, Room N–3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2110; fax: (202) 693–1644.

*Copies of this **Federal Register** notice.* Electronic copies of this notice are available at *http://www.regulations.gov.* Electronic copies of this notice, as well as news releases and other relevant information, are available on OSHA's Web site at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Keystone Steel and Wire Company (hereafter, "KSW"), 7000 S. Adams Street, Peoria, IL 61641,[1] submitted an application for a permanent variance under Section 6(d) of the Occupational Safety and Health Act of 1970 ("OSH Act"; 29 U.S.C. 655) and 29 CFR 1905.11 ("Variances and other relief under section 6(d)") for a permanent variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2). The Agency published KSW's variance application and a grant for an interim order in the **Federal Register** on July 1, 2010 (75 FR 38130).

KSW operates a melt shop where it processes scrap steel into a molten state. The equipment used to accomplish the melting process consists of: an electric-arc furnace, which uses an electric arc generated from electrodes to melt the scrap steel; and a ladle metallurgy furnace, which uses electrodes to maintain the molten steel at a constant temperature to produce the proper consistency of steel. The melting process requires the use of two overhead cranes to haul the scrap to the furnaces, and to transport the molten steel for further processing. Ten large, direct-current electric motors power each crane.

During the melting process, fugitive emissions containing trace amounts of lead and arsenic accumulate inside the motor housings of the overhead cranes.[2] To prevent electric arcing, KSW must remove the accumulated particulates from inside the crane-motor housings. To accomplish this task, KSW uses compressed air supplemented by a vacuum-containment system.

As an alternative to complying with the housekeeping requirements specified by 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2), KSW proposed to adopt an alternative means of compliance that consists, in part, of a compressed-air vacuum-containment (CAVC) system mounted on a truck. A worker begins the crane-motor cleaning operation by inserting the nozzle of the compressed-air gun into an opening in the housing, then triggers the compressed air. The vacuum-containment system, which the worker activates prior to beginning the motor-cleaning operation, generates exhaust airflow inside the crane-motor housing. The vacuum, delivered through a hose, has an exhaust volume of 5,000 cubic feet per minute, and collects the lead and arsenic particulates that the worker removes with compressed air from the interior components of the crane motor. The system then deposits the particulates in a hopper, also mounted on the truck.

KSW designed a flanged end that fits over an opening in a housing that covers each crane motor. The vacuum hose is connected to, and is supported by, this flange. Thus, the combination of the housing, flanged end, compressed air, and the vacuum-containment system captures most of the fugitive particulates released during the motor-cleaning operation, thereby reducing worker exposure to airborne lead and arsenic.

In support of its variance application, KSW submitted the following data and information demonstrating the effectiveness of the alternative means of compliance:

1. KSW administered several rounds of personal-exposure monitoring to workers who used compressed air while cleaning the crane motors. The results for the last two rounds of sampling for both lead and arsenic were below the action levels for these substances.

2. KSW performed several rounds of medical surveillance, including biological monitoring for blood lead and zinc protoporphyrin concentrations, on workers who cleaned crane motors. Blood-lead monitoring results were well below the allowable concentration of 40 μg lead/100 g whole blood.

3. KSW developed and implemented a *Respiratory Protection Program* designed to meet the requirements specified by 29 CFR 1910.134, 29 CFR 1910.1025(f), and 29 CFR 1910.1018(h).

4. KSW developed and implemented an *Arsenic, Lead, & Cadmium Control Program* to meet the requirements specified by 29 CFR 1910.1018, 29 CFR 1910.1025, and 29 CFR 1910.1027, respectively.

5. KSW developed and implemented a *Safe Job Procedure* incorporating key elements of a job-hazard analysis. This document provides affected workers with a description of the steps required to complete the cleaning task, and the hazards associated with, and control methods used for, each of these steps (e.g., using vacuum exhaust in conjunction with compressed air, the type of protective clothing and other PPE to wear).

6. KSW developed and implemented a program to instruct affected workers about the hazards associated with performing motor-cleaning operations, and the hazard controls used while performing these operations.

In addition to the CACV, KSW proposed to include the following conditions in its alternative means of compliance:

[1] This address also is the place of employment described in the application.

[2] The facility has local exhaust ventilation on the furnaces, and a canopy hood for the entire melt shop that captures most of the fugitive emissions.

Engineering Controls and Related Conditions

1. Implement engineering controls (*i.e.,* a compressed-air vacuum-containment (CAVC) system) that maintain negative pressure inside the housing enclosing each crane motor when using compressed air to clean crane motors; this condition ensures that the exhaust airflow leaving the enclosure exceeds the inflow of compressed air by maintaining the volume of compressed air below 5,000 cubic feet per minute. This condition effectively prevents escape of lead and arsenic particulates from the crane-motor housing.

2. To prevent the spread and recirculation of captured lead and arsenic particulates from the vacuum truck, ensure that: (a) The exhaust air in the CVAC system passes through a high-efficiency particulate air (HEPA) filtration system prior to discharge; and (b) this filtered exhaust does not reenter the work areas inside the plant.

3. Ensure the continued effectiveness of the alternative means of compliance by: (a) Performing a pre-use or yearly inspection (whichever occurs more frequently) of all equipment and components used in the cleaning operations; [3] (b) documenting such inspections using a checklist; (c) replacing or repairing all defective parts and components; and (d) maintaining records of inspections and corrective actions. This condition ensures that the equipment performs continuously at optimum effectiveness, thereby minimizing release of lead and arsenic particulates into the ambient atmosphere during the crane motor-cleaning operation.

4. Before implementing revisions to the motor-cleaning process, modify the *Safe Job Procedure* accordingly, and inform affected workers of the modifications. This condition promptly informs and updates workers performing the crane motor-cleaning operation of revisions to work procedures and safety practices, thereby reducing the possibility that they could compromise the effectiveness of the CACV system and other protective measures.

Exposure Monitoring

5. Perform personal-exposure monitoring (*i.e.,* Breathing-zone sampling) of the workers for lead and arsenic particulates during the entire period they use compressed air to clean crane motors. For multiple crane motor-cleaning operations during the same maintenance cycle, perform such monitoring on at least two operations that are representative of exposures for all affected workers performing cleaning operations during the cycle. This condition allows KSW to monitor worker exposure to lead and arsenic particulates outside the crane-motor housing during the cleaning operation. KSW would use these monitoring results to determine the effectiveness of the CACV system, and to take corrective action if exposures are at or above the action levels for lead or arsenic.

6. Conduct breathing-zone sampling of affected workers for the entire work day (full shift) on days when workers use compressed air to clean crane motors. The full-shift sampling must include a separate sampling for the crane motor-cleaning operation, and a separate sampling for the portion of the shift that does not involve motor cleaning. This condition would assist KSW in identifying the source of elevated exposures (*i.e.,* at or above the action level) that occur during the shift so that it can correct or implement appropriate exposure-control measures to reduce worker exposures below the action levels for lead and arsenic.

7. Ensure that results for the two most recent rounds of full-shift sampling remain below the action levels for arsenic and lead. This condition ensures that KSW can maintain worker exposure levels below the action levels for lead and arsenic, thereby providing them with a safe and healthful workplace.

8. Submit the breathing-zone samples for lead and arsenic particulates to an analytical laboratory that meets and complies with the certification criteria of the American Industrial Hygiene Association's Industrial Hygiene Proficiency Analytical Testing Program. This condition provides assurance that the laboratory is performing the testing of breathing-zone samples in accordance with recognized analytical standards to maintain the accuracy, reliability, and reproducibility of the sampling results. Accurate, reliable, and reproducible sampling results ensure that worker exposure determinations are valid.

Biological Monitoring

9. Within 30 calendar days after workers perform a motor-cleaning operation, conduct biological monitoring for blood-lead and zinc-protoporphyrin concentrations on every worker involved in that motor-cleaning operation. Blood-lead sample analysis must be performed by a laboratory licensed by the U.S. Centers for Disease Control and Prevention (CDC), or a laboratory that obtained a satisfactory grade in blood-lead proficiency testing from CDC within the prior 12 months and has an accuracy (to a confidence level of 95 percent) within ±15 percent or 6 μg/100 ml, whichever is greater. This condition provides information (in addition to exposure monitoring) regarding worker exposure to lead particulates while involved in the crane motor-cleaning operation, and demonstrates the effectiveness of the alternative means of compliance. This condition also provides assurance that the laboratory is performing the analysis of blood-lead samples in accordance with recognized analytical standards to maintain the accuracy, reliability, and reproducibility of the sampling results.

10. Ensure that blood-lead results remain at or below 40 μg lead/100 g whole blood. This condition supplements other conditions in providing information on the effectiveness of the alternative means of compliance, in addition to signaling the need to remove affected workers from the crane motor-cleaning operations in accordance with 29 CFR 1910.1025(k) should the blood-lead results exceed 40 μg lead/100 g whole blood.

11. Whenever KSW assigns a new worker to perform the crane motor-cleaning operation, conduct biological monitoring of the worker prior to the worker beginning the cleaning operation. This condition establishes a baseline blood-lead level against which to compare subsequent biological samples and, thereby, assess the effectiveness of the alternative means of compliance.

12. KSW will not assign any worker to the crane motor-cleaning operation who declines to undergo the biological-monitoring procedures. This condition prevents worker exposure to the motor-cleaning operation without the benefit of biological monitoring to assess over-exposure to lead particulates.

Notifications

13. Provide written notification to affected workers of the results of their individual personal-exposure and biological-monitoring results in accordance with the requirements of the arsenic and lead standards (29 CFR 1910.1018(e)(5), 29 CFR 1910.1018(n)(6)(iii), 29 CFR 1910.1025(d)(8) and 29 CFR 1910.1025(j)(3)(v)(A)(4)) within 15 working days from receipt of the results. The information provided to the affected workers will enable them to assess the effectiveness of the

[3] Examples of the equipment or components listed on the checklist include: air compressors; pressure regulators; gages; compressed-air hoses; nozzle-pressure reducer; crane-motor enclosures; flanges; vacuum-system operations, including the HEPA filtration system and replacement of used filters; vacuum hoses; and electric outlets and extension cords used during the cleaning process.

alternative means of compliance, *i.e.,* the adequacy of existing controls or the need for additional controls.

14. Whenever (a) personal-exposure monitoring results are at or above the action levels for lead (30 μg/m^3) or arsenic (5 μg/m^3), or (b) blood-lead monitoring results are above 20 μg lead/100 g whole blood, provide these results to OSHA's Peoria, IL, Area Office, OSHA's Chicago, IL, Regional Office, and OSHA's Office of Technical Programs and Coordination Activities within 15 working days of receiving the results, along with a written plan describing how KSW will reduce exposure levels or blood-lead levels. This condition will ensure that OSHA remains informed regarding the effectiveness of the alternative means of compliance, and will provide OSHA with an opportunity to assess KSW's plan to reduce exposures to lead and arsenic below the action levels for these substances. Under this condition, OSHA also can evaluate KSW's progress in restoring the effectiveness of the alternative means of compliance, and, if necessary, revise the conditions or revoke the variance should KSW not attain exposure levels below the action levels in a timely manner.

15. At least 15 calendar days prior to commencing any operation that involves using compressed air to clean crane motors, inform OSHA's Peoria, IL, Area Office and OSHA's Chicago, IL, Regional Office of the date and time the operation will commence. This condition provides OSHA with an opportunity to conduct on-site assessments of KSW's compliance with the conditions of the variance, and to ascertain directly the effectiveness of the alternative means of compliance.

16. Notify in writing OSHA's Office of Technical Programs and Coordination Activities as soon as KSW knows that it will: (a) Cease to do business; or (b) transfer the activities covered by the variance to a successor company. This condition allows OSHA to determine whether to revoke the variance or transfer the variance to the successor company.

Training

17. Implement the worker-training programs described in 29 CFR 1910.1018(o) and 29 CFR 1910.1025(l), including: (a) Initial training of new workers prior to their beginning a crane motor-cleaning operation; (b) yearly refresher training of all other workers involved in crane motor-cleaning operations; (c) documentation of this training; and (d) maintenance of the training records.[4] This condition ensures that workers are knowledgeable regarding the hazards and corresponding hazard-control measures KSW implements to prevent worker exposure to harmful levels of airborne lead and arsenic particulates while engaged in the crane motor-cleaning. Training also provides workers with information necessary for them to assess KSW's compliance with the conditions of the variance and the effectiveness of the alternative means of compliance.

Miscellaneous Program Conditions

18. Implement the: (a) *Respiratory Protection Program* that meets[5] the requirements specified by 29 CFR 1910.134, 29 CFR 1910.1025(f), and 29 CFR 1910.1018(h); (b) provisions of KSW's *Arsenic, Lead, & Cadmium Control Program;* and (c) provisions of the *Safe Job Procedure*. This condition ensures that KSW will implement the programs and associated safe-work practices that prevent worker exposure to harmful levels of airborne lead and arsenic particulates while engaged in crane motor-cleaning operations, which are necessary for the continued effectiveness of the alternative means of compliance.

Monitoring Work Practices

19. Ensure that supervisors observe and enforce applicable safe-work practices[6] while workers are cleaning crane motors, document these supervisor observations and enforcement activities, and maintain these records. This condition ensures that affected workers implement the required safe-work practices during crane-motors cleaning operations. This condition will permit OSHA, KSW managers, workers, and worker representatives to assess compliance with the conditions of the variance and, therefore, determine the effectiveness of the alternative means of compliance.

Record Retention and Availability

20. Retain any records generated under these conditions for a minimum period of five years, unless an applicable OSHA standard specifies a longer period,[7] and make these records available to OSHA, affected workers, and worker representatives on request. This condition allows OSHA, KSW managers, workers, and worker representatives to assess the effectiveness of the alternative means of compliance over an extended period, and provides baseline measurements against which to evaluate the effectiveness of subsequent revisions made to the alternative means of compliance.

II. Variance From 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2)

KSW seeks a permanent variance from the provisions of the OSHA standards that regulate occupational exposure to lead and arsenic, specifically paragraph (h)(2)(i) of 29 CFR 1910.1025 and paragraph (k)(2) of 29 CFR 1910.1018. These paragraphs prohibit use of compressed air to clean floors and other surfaces where lead and arsenic particulates accumulate. These paragraphs specify the following requirements:

29 CFR 1910.1025(h)(2)(i): Floors and other surfaces where lead accumulates may not be cleaned by the use of compressed air.

29 CFR 1910.1018(k)(2): Cleaning floors. Floors and other accessible surfaces contaminated with inorganic arsenic may not be cleaned by the use of compressed air, and shoveling and brushing may be used only where vacuuming or other relevant methods have been tried and found not to be effective.

As an alternative to complying with housekeeping requirements as specified by 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2), KSW proposed to use compressed air supplemented by a vacuum-containment system discussed in section I ("Background") of this notice to perform cleaning of crane-motor housings. KSW asserted that use of the proposed compressed air supplemented by a vacuum-containment system protected its workers as least as effectively as the housekeeping requirements of 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2).

III. Comments on the Variance Application

The **Federal Register** notice (75 FR 38130) invited interested parties, including KSW and affected employees, to submit written data, views, and arguments regarding the grant or denial of the variance application submitted by

[4] As described by KSW's *Arsenic, Lead, & Cadmium Control Program* (*see* Exhibit 19).

[5] The term "meets" means that the *Respiratory Protection Program* must meet the requirements of 29 CFR 1910.134 and 29 CFR 1910.1025(f), not that OSHA determined that the program meets these requirements.

[6] Examples of safe-work practices include use of personal-protective equipment (including respirators, gloves, protective clothing) as defined by (a) KSW's *Respiratory Protection Program;* (b) provisions of KSW's *Arsenic, Lead, & Cadmium Control Program;* and (c) provisions of KSW's *Safe Job Procedure.*

[7] For example, § 1910.1025(n)(1)(iii) and (n)(2)(iv) require employers to retain lead exposure-monitoring records and medical records for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

KSW. In addition, the **Federal Register** notice notified KSW and affected employees of their right to request a hearing on the application for a variance. OSHA received no comments on the variance application, nor did it receive any requests for a hearing.

IV. Decision

Keystone Steel and Wire Company seeks a permanent variance from the provisions of the OSHA standards that regulate occupational exposure to lead and arsenic, specifically paragraph (h)(2)(i) of 29 CFR 1910.1025 and paragraph (k)(2) of 29 CFR 1910.1018. These paragraphs prohibit use of compressed air to clean floors and other surfaces where lead and arsenic particulates accumulate. Paragraph (h)(2)(i) of 29 CFR 1910.1025 states that employers cannot use compressed air to clean floors and other surfaces where lead accumulates, while paragraph (k)(2) of 29 CFR 1910.1018 prohibits employers from using compressed air to clean floors and other accessible surfaces contaminated with inorganic arsenic, and permits the use of shoveling and brushing for this purpose only after employers try vacuuming or other relevant methods and find these methods to be ineffective.

As an alternative to complying with the housekeeping requirements specified by 29 CFR 1910.1025(h)(2)(i) and 29 CFR 1910.1018(k)(2), KSW proposed to adopt an alternative means of compliance that consists, in part, of a compressed-air vacuum-containment system mounted on a truck. A worker begins the crane-motor cleaning operation by inserting the nozzle of the compressed-air gun into an opening in the housing, then triggers the compressed air. The vacuum-containment system, which the worker activates prior to beginning the motor-cleaning operation, generates exhaust airflow inside the crane-motor housing. The vacuum, delivered through a hose, has an exhaust volume of 5,000 cubic feet per minute, and collects the lead and arsenic particulates that the worker removes with compressed air from the interior components of the crane motor. The system then deposits the particulates in a hopper, also mounted on the truck.

KSW designed a flanged end that fits over an opening in a housing that covers each crane motor. The vacuum hose is connected to, and is supported by, this flange. Thus, the combination of the housing, flanged end, compressed air, and the vacuum-containment system captures most of the fugitive particulates released during the motor-cleaning operation, thereby reducing worker exposure to airborne lead and arsenic.

Under Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), and based on the record discussed above, the Agency finds that when KSW complies with the conditions of the following order, the working conditions of the KSW's workers will be at least as safe and healthful as if KSW complied with the working conditions specified by paragraphs (h)(2)(i) of 29 CFR 1910.1025 and (k)(2) of 29 CFR 1910.1018. This decision is applicable in all States under Federal OSHA enforcement jurisdiction.

V. Order

OSHA issues this order authorizing the Keystone Steel and Wire Company (hereafter, "the employer") to comply with the following conditions instead of complying with paragraphs (h)(2)(i) of 29 CFR 1910.1025 and (k)(2) of 29 CFR 1910.1018. This order applies only in Federal OSHA enforcement jurisdictions, and does not permit the employer to vary compliance with any other provisions of 29 CFR 1910.1025 and 29 CFR 1910.1018.

1. Scope of the Permanent Variance

This permanent variance applies only at the employer's melt shop when using compressed air to clean crane motors during maintenance operations.

2. Engineering and Related Conditions

(a) The employer must:

(1) Use engineering controls (*i.e.,* a compressed-air vacuum-containment (CAVC) system) that maintain negative pressure inside the housing enclosing each crane motor when using compressed air to clean crane motors, and ensure that the vacuum-exhaust airflow leaving the enclosure exceeds the inflow of compressed air by maintaining the volume of compressed air below 5,000 cubic feet per minute.

(b) Ensure that the:

(1) Exhaust air in the CAVC system passes through a high-efficiency particulate air (HEPA) filtration system prior to discharge; and

(2) Filtered exhaust does not reenter the work areas inside the plant.

(c) Ensure the continued effectiveness of the alternative means of compliance by:

(1) Performing a pre-use or yearly inspection (whichever occurs more frequently) of all equipment and components used in the cleaning operations; [8]

(2) Documenting such inspections using a checklist;

(3) Replacing or repairing all defective parts and components; and

(4) Maintaining records of inspections and corrective actions.

(d) Before implementing revisions to the motor-cleaning process, modify the *Safe Job Procedure* accordingly, and inform affected workers of the modifications.

3. Exposure Monitoring

The employer must:

(a) Perform personal-exposure monitoring (*i.e.,* breathing-zone sampling) of the workers for lead and arsenic particulates during the entire period they use compressed air to clean crane motors. For multiple crane motor-cleaning operations during the same maintenance cycle, perform such monitoring on at least two operations that are representative of exposures for all affected workers performing cleaning operations during the cycle.

(b) Conduct breathing-zone sampling of affected workers for the entire work day (full shift) on days when workers use compressed air to clean crane motors. The full-shift sampling must include separate sampling during the crane motor-cleaning operation, and a separate sampling for the portion of the shift that does not involve motor cleaning.

(c) Ensure that results for the two most recent rounds of full-shift sampling remain below the action level for arsenic and lead.

(d) Submit the breathing-zone samples for lead and arsenic particulates to an analytical laboratory that complies with the certification criteria of the American Industrial Hygiene Association's Industrial Hygiene Proficiency Analytical Testing Program.

4. Biological Monitoring

The employer must:

(a) Within 30 calendar days after workers perform a motor-cleaning operation, conduct biological monitoring for blood-lead and zinc-protoporphyrin concentrations on every worker involved in that motor-cleaning operation. Blood-lead sample analysis must be performed by a laboratory licensed by the U.S. Centers for Disease Control and Prevention (CDC), or a laboratory that obtained a satisfactory grade in blood-lead proficiency testing from CDC within the prior 12 months

[8] Examples of the equipment or components listed on the checklist include: air compressors; pressure regulators; gages; compressed-air hoses; nozzle-pressure reducer; crane-motor enclosures; flanges; vacuum-system operations, including the HEPA filtration system and replacement of used filters; vacuum hoses; and electric outlets and extension cords used during the cleaning process.

and has an accuracy (to a confidence level of 95 percent) within ±15 percent or 6 μg/100 ml, whichever is greater.

(b) Ensure that blood-lead results remain at or below 40 μg lead/100 g whole blood.

(c) Whenever the employer assigns a new worker to perform the crane motor-cleaning operation, conduct biological monitoring of the worker prior to the worker beginning the cleaning operation.

(d) Not assign any worker to the crane motor-cleaning operation who declines to undergo the biological-monitoring procedures.

5. Notifications

(a) *The employer must:*

(1) Provide written notification to affected workers of the results of their individual personal-exposure and biological-monitoring results in accordance with the requirements of the arsenic and lead standards (29 CFR 1910.1018(e)(5), 29 CFR 1910.1018(n)(6)(iii), 29 CFR 1910.1025(d)(8), and 29 CFR 1910.1025(j)(3)(v)(A)(4)) within 15 working days from receipt of the results.

(2) Whenever personal-exposure monitoring results are at or above the action levels for lead (30 μg/m^3) or arsenic (5 μg/m^3), or blood-lead monitoring results are above 20 μg lead/100 g whole blood, provide these results to OSHA's Peoria, IL, Area Office, OSHA's Chicago, IL, Regional Office, and OSHA's Office of Technical Programs and Coordination Activities within 15 working days of receiving the results, along with a written plan describing how the employer will reduce exposure levels or blood-lead levels.

(3) At least 15 calendar days prior to commencing any operation that involves using compressed air to clean crane motors, inform OSHA's Peoria, IL, Area Office and OSHA's Chicago, IL, Regional Office of the date and time the operation will commence.

(b) Notify in writing OSHA's Office of Technical Programs and Coordination Activities as soon as the employer knows that it will:

(1) Cease to do business; or

(2) Transfer the activities covered by this grant to a successor company.

6. Training

The employer must implement the worker-training programs described in 29 CFR 1910.1018(o) and 29 CFR 1910.1025(l), including:

(a) Initial training of new workers prior to their beginning a crane motor-cleaning operation;

(b) Yearly refresher training of all other workers involved in crane motor-cleaning operations;

(c) Documentation of this training; and

(d) Maintenance of the training records.[9]

7. Miscellaneous Program Conditions

The employer must implement the:

(a) *Respiratory Protection Program* that meets the requirements specified by 29 CFR 1910.134, and 29 CFR 1910.1025(f), and 29 CFR 1910.1018(h);

(b) Provisions of the employer's *Arsenic, Lead, & Cadmium Control Program;* and

(c) Provisions of the *Safe Job Procedure.*

8. Monitoring Work Practices

The employer must ensure that supervisors:

(a) Observe and enforce applicable safe-work practices[10] while workers are cleaning crane motors;

(b) Document these supervisor observations and enforcement activities; and

(c) Maintain these records.

9. Record Retention and Availability

The employer must:

(a) Retain any records generated under the conditions specified in this grant for a minimum period of five years, unless an applicable OSHA standard specifies a longer period;[11] and

(b) Make these records available to OSHA, affected workers, and worker representatives on request.

VI. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC, directed the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 4–2010 (75 FR 55355), and 29 CFR part 1905.

Signed in Washington, DC, on October 7, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–25739 Filed 10–12–10; 8:45 am]

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[9] As described by KSW's *Arsenic, Lead, & Cadmium Control Program.*

[10] Examples of safe-work practices include use of personal-protective equipment (including respirators, gloves, protective clothing) as defined by (a) KSW's *Respiratory Protection Program;* (b) provisions of KSW's *Arsenic, Lead, & Cadmium Control Program;* and (c) provisions of KSW's *Safe Job Procedure.*

[11] For example, § 1910.1025(n)(1)(iii) and (n)(2)(iv) require employers to retain lead exposure-monitoring records and medical records for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption No. 2010–30; Application No. L–11568]

Individual Exemption Involving General Motors Company, General Motors Holdings LLC, and General Motors LLC, Located in Detroit, MI

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This document contains an exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act or ERISA). The transactions involve the UAW GM Retiree Medical Benefits Plan (the New UAW-GM Retirees Plan) and its associated UAW Retiree Medical Benefits Trust (the VEBA Trust) (collectively the New Plan).[1] The exemption will affect the New Plan, and its participants and beneficiaries.

DATES: *Effective Date:* This exemption is effective as of July 10, 2009.

SUPPLEMENTARY INFORMATION: On September 18, 2009, the Department published in the **Federal Register** a notice of proposed individual exemption from the restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(D), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a) of ERISA (the Notice).[2] The proposed exemption was requested in an application filed by General Motors Corporation (Old GM) pursuant to section 408(a) of ERISA and in accordance with the procedures set forth in 29 CFR 2570, Subpart B (55 FR 32836, August 10, 1990). Subsequent to the submission of its application, Old

[1] In the notice of proposed exemption published with respect to the exemption granted herein (74 FR 47963, September 18, 2009), the Department referred to UAW GM Retiree Medical Benefits Plan as "the New GM VEBA Plan" and collectively referred to the New GM VEBA Plan and the VEBA Trust as the "VEBA." At the request of the Applicant, the Department has substituted the terms "the New UAW-GM Retirees Plan" and "the New Plan," respectively, therefor.

[2] 74 FR 47963.

GM sold substantially all of its assets to General Motors Company (New GM).[3]

Background

On July 5, 2009, the U.S. Bankruptcy Court for the Southern District of New York approved a sale under Section 363 of Title 11 of the U.S. Code by which New GM succeeded to certain assets and liabilities of Old GM (the Section 363 Sale). The bankruptcy court also approved an agreement, known as the Modified Settlement Agreement, between Old GM and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), which governed the provision of post-retirement medical benefits by New GM to certain employees and retirees. Pursuant to the Modified Settlement Agreement, New GM was required to transfer the following to the New Plan: (i) New GM common stock (the New GM Common Stock) representing 17.5% of New GM's common equity, (ii) $6.5 billion of New GM preferred stock (the Preferred Stock), (iii) a note with a principal amount of $2.5 billion (the Note), (iv) warrants entitling the New Plan to acquire an additional 2.5% of New GM Common Stock (the Warrants) and (v) assets of two pre-existing VEBAs, the Mitigation VEBA and the UAW-Related Account of the GM Internal VEBA, established by Old GM.

Old GM submitted an application for relief from the prohibited transaction provisions of ERISA for two sets of transactions. The first set of transactions involves the transfer of the securities described above to the New Plan and the subsequent holding and management of such securities. The second set of transactions involves asset transfers to and from the New Plan necessitated by the transition of benefit payment responsibility from certain predecessor plans (the Old GM Plan and the New GM Plan) to the New Plan,[4] or due to mistaken deposits into the New Plan.

Written Comments and Hearing Requests

In the Notice, the Department invited interested persons to submit written comments and requests for a hearing on the proposed exemption. All comments and requests for a hearing were due November 2, 2009. During the comment period, the Department received more than 200 telephone calls, approximately 100 letters, emails and faxes, and 15 requests for a public hearing from New Plan participants. The Department additionally received written comments from General Motors LLC,[5] the committee that is the plan administrator and named fiduciary of the New Plan (the Committee), and the Independent Fiduciary retained to manage the New GM securities held by the New Plan.[6]

Participant Comments

The great majority of participants who contacted the Department either by telephone or written comment (commenters) expressed difficulty in understanding the Notice or the effect of the exemption on the commenters' benefits. A few commenters supported the exemption. Many other commenters raised questions and concerns regarding the transactions described in the Notice.

Specifically, some of the commenters were opposed to the transfer of the New GM securities to the New Plan due to the uncertain value and current lack of marketability of the securities. Some commenters were concerned that the New Plan would not be able to provide benefits for the duration of their lifetimes. A number of commenters raised concerns that are beyond the scope of the exemption. These concerns included the perceived unfair treatment of retirees within the UAW; lack of participation afforded to retirees in the process of approving the Modified Settlement Agreement; the validity of Old GM's bankruptcy; and concerns about the rising costs of maintaining healthcare coverage under the New Plan. The commenters who requested a public hearing shared these same concerns. However, none of the commenters offered any information regarding the substance of the subject transactions.

In responding to commenters' concerns as to the funding of the New Plan, General Motors LLC notes that the funding of the New Plan was determined after lengthy, arms-length negotiations that included GM and the UAW as both the representative of the active employees and as the authorized representative under Section 1114 of the U.S. Bankruptcy Code of those persons receiving retiree health care benefits. Class Counsel for the retirees also played a role in these negotiations and acknowledged and confirmed his agreement to the terms of the Modified Settlement Agreement. In addition, representatives of the U.S. Treasury participated in the negotiations. Further, General Motors LLC points out that the Modified Settlement Agreement was approved by an order of the federal bankruptcy court, which stated that the terms and conditions of the Modified Settlement Agreement (including but not limited to those relating to the funding of the New Plan) were "fair, reasonable, and in the best interests of the retirees."

General Motors Comments

General Motors LLC submitted a comment disclosing certain corporate changes since the date of the exemption application. According to the comment, on August 11, 2009, New GM created three new entities under Delaware law: (1) General Motors Holding Company ("Holdco"), a corporation formed as a direct and wholly-owned subsidiary of New GM, (2) General Motors Holdings LLC ("Holdings"), a limited liability company formed as a direct and wholly-owned subsidiary of Holdco; and (3) GM Merger Subsidiary, Inc. ("Merger Subsidiary"), a corporation formed as a direct and wholly-owned Delaware corporate subsidiary of Holdings.

The comment disclosed that during the period October 15, 2009, through November 2, 2009, New GM underwent a corporate reorganization. On October 15, 2009, Merger Subsidiary merged with and into New GM, with New GM as the surviving corporation, as a wholly-owned subsidiary of Holdings. On October 16, 2009, New GM converted to a limited liability company under the name General Motors LLC. Immediately thereafter, Holdco changed its name to General Motors Company (New GM). On October 19, 2009, General Motors LLC assigned its indebtedness to the U.S. Treasury and the New Plan to Holdings.[7]

[3] Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this final exemption is being issued solely by the Department.

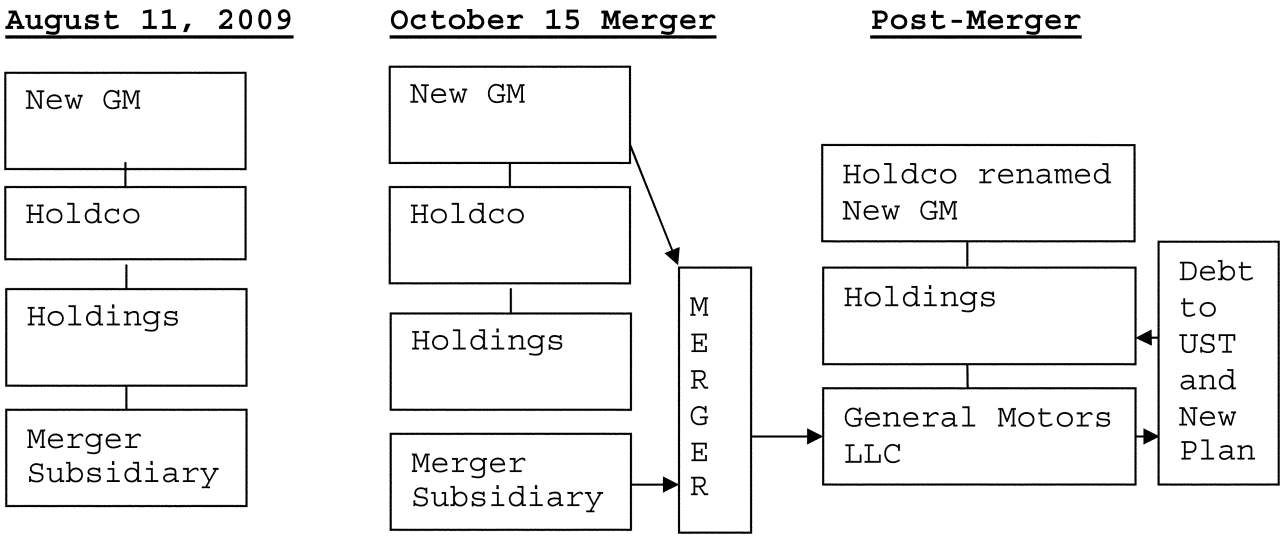
[4] As described in the Notice, the Old GM Plan provided benefits to, among others, individuals who ultimately became covered by the New Plan. The New GM Plan provided benefits to most of those same individuals from the date of the Section 363 Sale to the date of implementation of the New Plan.

[5] As described in more detail below, General Motors LLC is a newly-created indirect wholly-owned subsidiary of New GM.

[6] The Committee sought and received a one-week extension of the comment period, to November 9, 2009. On March 16, 2010, with the Department's permission, the Committee filed an additional comment. On April 12, 2010, New GM submitted a response to the Committee's March 16, 2010 comment. During this time frame, the Department also accepted additional submissions from plan participants.

[7] According to the comment, these corporate changes were accompanied by the requisite resolutions, stockholder consents, certificate of incorporation and by-law changes, stock conversions etc. as applicable. Each share of pre-reorganization New GM Common Stock was converted into a right to acquire a share of common stock issued by post-reorganization New GM, with the same features.

General Motors LLC provided the following graphic illustration of the merger process:



In this regard, General Motors LLC provided certain revisions to its representations. First, the applicant is now identified as General Motors LLC, although the comment stated that General Motors LLC would not object if the exemption were issued to New GM, Holdings and General Motors LLC collectively. Second, the Note issued to the New Plan by New GM became an obligation of Holdings. Accordingly, with regard to the exemption for the acquisition and holding of the Note, the direct parties to the transactions are Holdings and the New Plan. With regard to the exemptions for the acquisition and holding of the New GM Common Stock, the Preferred Stock, and the Warrants, the direct parties are New GM and the New Plan. With regard to the exemption for the transition payments, the direct parties to the transactions are General Motors LLC, Old GM (*i.e,* General Motors Corporation, which has changed its name to Motors Liquidation Company), the Old GM Plan, the New GM Plan and the New Plan.

General Motors LLC provided the following explanation of the reason for the corporate reorganization:

> The decision to create Holdings as an intermediate corporate layer and place the debt obligations in Holdings was prompted by a suggestion from [the United States Treasury]. Given the holding company structure, the "issuer" of the other securities—the Common Stock, Preferred Stock, and the Warrants—must be [New GM], the holding company. [General Motors LLC], the third-tier subsidiary, is an LLC and not a suitable issuer of securities that are intended to be widely held and publicly traded. In addition, the 100% ownership in the chain would not be possible if the Common Stock were not issued by New GM. Moreover, the stock is far more desirable if issued by the top-tier company in the structure than if issued by a second-tier or third-tier company. For the debt, however, the reason for making Holdings the obligor (as opposed, for example, to [New GM]) was to place the obligor as close to the underlying assets as possible. And [General Motors LLC] itself could not be the obligor because the guarantors on the Notes are not only [General Motors LLC] and its U.S. subsidiaries, but also the non-U.S. auto subsidiaries of Holdings. Further, it is contemplated that Holdings will be the obligor on any future financings.

General Motors LLC further represented that "the rights of [the New Plan] under the Amended and Restated Secured Note Agreement of August 14, 2009 ("Note") remain just as they were under the Secured Note Agreement of July 10, 2009 ("Original Note") before the reorganization occurred, notwithstanding the substitution of General Motors Holdings LLC ("Holdings") for General Motors Company as obligor on the Note * * * The terms of the Note remain the same in all material respects as they were under the Original Note."

General Motors LLC also requested some minor wording changes to the operative language of the exemption, to which the Department agreed. Specifically, the Department revised:

- Section I(a) to add a new subsection (1)(v) to separately set forth relief for the acquisition of New GM Common Stock pursuant to the exercise of the Warrants or through a corporate transaction, for avoidance of confusion, and to delete subsection (2) as duplicative of the new subsection (1)(v), and to renumber the remaining subsections;
- Section II(c) to state that the Independent Fiduciary must determine that the transaction is "protective of the *rights of* participants and beneficiaries * * *" in order to more closely track ERISA section 408(a); and
- Section III(b) to add the words "as applicable" after the word "administrator(s)" and the words "if any" after the phrase "the dollar amount of mispayments made."[8]

Additionally, the Department deleted the first clause of section V(b) ("(1) Except as provided in section (2) of this paragraph"), as unnecessary in light of the fact that there is no section V(b)(2). At General Motors LLC's request, the Department further revised section V of the final exemption. The section, which addresses recordkeeping, was tailored to take into account the fact that multiple parties have recordkeeping responsibilities under the exemption.

Finally, on March 12, 2010, General Motors LLC represented to the Department that all assets described in the application as transferring to the GM Separate Retiree Account[9] of the VEBA Trust had been transferred, with the exception of approximately $20.7 million of cash in the GM Internal VEBA, held back for the payment of expenses (primarily, investment

[8] The Department has determined to add the words "if any" after the phrase "the dollar amount of mispayments made" in Section III(a) as well.

[9] The GM Separate Retiree Account is the separate retiree account of the VEBA Trust designed to segregate payments to the VEBA Trust attributable to GM pursuant to the Modified Settlement Agreement.

manager fees and expenses for custody, legal, and Promark Global Advisors, Inc. (Promark) services) accrued before the GM Internal VEBA assets were transferred.[10] Regarding this hold-back, General Motors LLC expects to furnish an initial reconciliation to the VEBA Trust by mid-summer 2010. The Department notes that the Applicant disclosed in its initial application that this hold-back would occur.

Committee Comments

The Committee, which is the named fiduciary of the New Plan, submitted a comment suggesting certain modifications to the Summary of Facts and Representations of the Notice and to the operative language of the proposed exemption, and requesting certain clarifications from the Department. The Committee's comments were submitted after consultation with the Independent Fiduciary.

Number of Investment Banks

As set forth in the Notice, the VEBA Trust has three separate retiree accounts (the Separate Retiree Accounts) designed to segregate payments to the VEBA Trust attributable to GM, Ford and Chrysler, pursuant to the terms of each company's settlement agreement with the UAW and each respective class. In this regard, the Committee represented that, in the event that a single Independent Fiduciary represents two or more Separate Retiree Accounts:

> A separate investment bank will be retained with respect to each of the three plans comprising the VEBA Trust. The investment bank's initial recommendations will be made solely with the goal of maximizing the returns for the single plan that owns the securities for which the investment bank is responsible.

In its initial discussions with the Department, the Committee made the argument that the arrangement for retention of separate investment banks would minimize the likelihood of an immediate transactional conflict inherent wherein one Independent Fiduciary managing more than one Separate Retiree Account would be immediately confronted by the need to dispose of the securities of each company.

The Committee has retained Fiduciary Counselors Inc. (FCI) as the Independent Fiduciary with respect to the securities held in the GM Separate Retiree Account, and has currently retained separate independent fiduciaries with respect to the Chrysler and Ford Separate Retiree Accounts. As noted, however, it is conceivable at some future date any or all three Independent Fiduciary engagements may be consolidated and the foregoing conditions would then come into play. In such event, the Committee argues that the requirement for different investment banks for each Separate Retiree Account would not be in the interest of the New Plan and would not advance the goal of reducing potential fiduciary conflicts. The Committee contends that the need to retain multiple investment banks should be at the discretion of the Independent Fiduciary and the investment banks themselves, or that such a requirement should be limited to investment banks performing a traditional underwriting role and being paid on a transactional basis, not those retained for ongoing valuation or investment consulting services.[11]

The Committee points out that, as a threshold matter, the term "investment bank" or "investment banker" is not a precise term, but refers to a range of services including investment valuation, investment consulting and advice, and brokerage or underwriting performed under the authority and supervision of one or more regulators (including, but not limited to the Federal Reserve and/or the Securities and Exchange Commission). The Committee maintains that typically, though not necessarily, an investment bank engaged to provide a regular valuation will not be the same as an investment bank engaged to assist the Independent Fiduciary in connection with a large private sale or an initial public offering, and even in the latter event, different investment banks may be employed for different markets (public versus private, international versus domestic, institutional versus retail).

The Committee suggests that, particularly in the case of an investment bank engaged only to provide valuation or investment advice, the Independent Fiduciary may conclude that there is no potential conflict in retaining a single investment bank with respect to two or more Separate Retiree Accounts. Furthermore, the Committee believes that retaining a single investment bank may in fact provide potential benefits in the form of experience, cost savings, and communication.

The Committee proffers that GM, Chrysler, and Ford are at vastly different stages of marketability, are competing for capital in different markets (including public versus private), and are not competing against each other so much as they are part of a huge global automobile market with many other competitors.[12] The Committee notes that a conflict could arise in the unlikely event that the Independent Fiduciary proposes to sell large blocks of stock of two or more car companies in the same market at the exact same time. In that case, the Committee suggests that the Independent Fiduciary would probably (though not necessarily) engage separate investment bankers at that time to underwrite the sales. Furthermore, the Committee contends that it would maintain safeguards to mitigate the risk of conflicts. For example, the Committee notes that it would still appoint a conflicts monitor and perform its own monitoring of the Independent Fiduciary, and it would continue to raise any questions about potential conflicts.

Accordingly, the Committee proposes to replace the above-referenced text with the following representation:

> In the event that a single Independent Fiduciary is retained to represent two or more plan Accounts, and it proposes to sell securities from two or more such Accounts at the same time, a separate investment bank (if any) will be retained for each Account with respect to the marketing or underwriting of the securities. For this purpose, an investment bank will be considered as having been retained to market or underwrite securities if it is compensated on the success of the offering and/or as a percentage of the offering or sales proceeds. The foregoing does not preclude the engagement of a single investment bank to provide valuation services or long-term investment consulting on behalf of two or more plan Accounts, provided that (1) the fees of the investment bank are not contingent upon the success or size of an offering or sale, and (2) for each plan Account, the investment bank's recommendations are made solely with the

[10] With respect to the payment by the GM Internal VEBA of expenses for the services of Promark, an affiliate of New GM, General Motors LLC clarified that Promark charges for its services only direct expenses permitted under the Department's regulations at 29 CFR §§ 2550.408b–2(e)(3) and .408c–2(b)(3). The Department notes that this exemption does not provide relief for any services provided to the GM Internal VEBA by Promark, nor to the payment of compensation for such services. Lastly, we note that section 408(b)(2) of ERISA does not provide relief for acts described in ERISA section 406(b).

[11] The Committee suggests that an investment bank performing valuation or investment consulting and advisory services will often be paid a flat or asset-based fee, while an investment bank performing underwriting and brokerage services will be paid a transaction-based fee as a percentage of the overall sale. Additionally, the Committee notes that it is not anticipated that the Independent Fiduciary likely would retain a separate consulting and advisory firm for day-to-day advice (unless appropriate).

[12] According to the Committee, the most likely reason that an investment bank would propose going to market under this scenario is if the overall market itself is booming, such that there is ample appetite for the securities. In the event that a plan needs liquidity in a falling market, the Committee is more likely to explore other options, including reducing benefits or seeking alternative sources of capital such as through borrowing.

goal of maximizing the returns for such Account.

In addition, the Committee explains that there may be some confusion as to whether two different Independent Fiduciaries may retain the same investment bank. The Committee states that there should be no limitations on the number of investment banks that the Independent Fiduciary must retain other than general fiduciary principles. According to the Committee, although it is unlikely that an Independent Fiduciary would consider, or that an investment bank would accept, an engagement that might involve marketing securities of two different companies in the same market at the same time, it would not be unusual, for instance, to retain the same investment bank to make a private offering of securities in the domestic market and a public offering of different securities in a foreign market, where such investment bank is best qualified to do so.

Accordingly, the Committee suggests that the proposed exemption be modified to include the following:

> To the extent two Accounts are represented by different Independent Fiduciaries, nothing herein shall prohibit the Independent Fiduciaries from retaining the same investment bank with respect to the Accounts which they manage if they determine that it is in the interest of their respective Accounts to do so.

The Committee further notes that the Independent Fiduciary may not in all cases have discretion over the selection of the investment bank(s) that may participate in an underwriting/sale of New GM securities. The Committee points to section 2.1.4 of the Equity Registration Rights Agreement, which provides that the U.S. Treasury generally has the right to select the lead underwriter in the case of a demand registration (and New GM the right to select co-managing underwriters) and section 2.2.3 of the Equity Registration Rights Agreement, which provides that New GM generally has the right to select the investment bank(s) in the case of a piggyback offering. In any such case where the Independent Fiduciary is not selecting the investment bank(s), in the Committee's view, none of the exemption conditions regarding investment banks should apply.

The Department concurs with the Committee that, in the event that one Independent Fiduciary represents two or more Separate Retiree Accounts, and it proposes to sell securities from two or more such Accounts at the same time, then a separate investment bank (if any) will be retained for each Separate Retiree Account with respect to the marketing or underwriting of the securities. Notwithstanding the above, nothing in the final exemption would preclude the Independent Fiduciary of two or more Separate Retiree Accounts from retaining the same investment banker to provide valuation services or long-term investment consulting on behalf of two or more of such Separate Retiree Accounts.[13] Furthermore, with respect to the Committee's suggestion that, to the extent that two Separate Retiree Accounts are represented by different Independent Fiduciaries, nothing herein shall prohibit the Independent Fiduciaries from retaining the same investment bank with respect to the Separate Retiree Accounts which they manage if they determine that it is in the interest of their respective Separate Retiree Accounts to do so, the Department is of the view that a separate investment bank (if any) must be retained to represent each such Separate Retiree Account with respect to the marketing or underwriting of the securities.

Lastly, the Department concurs with the Committee that the restrictions applicable to investment banks would not apply in the event that the Independent Fiduciary does not have discretion with respect to the selection of an investment banker. In the Department's view, the likelihood of conflicts in the case where an investment bank is selected by the U.S. Treasury or New GM is lower than in a situation where an offering of New GM securities is underwritten by an investment bank retained to sell the securities of one or more of the other Separate Retiree Accounts, because the interests of the New Plan appear to align more closely with the interests of New GM in the marketing and selling of the underwritten securities. Therefore, subject to these limitations, the Department concurs with the Committee's requested clarifications.

Reporting Deviations From an Investment Bank's Recommendations

If a single Independent Fiduciary is retained with respect to more than one Separate Retiree Account, the Summary of Facts and Representations of the Notice provides that the Independent Fiduciary shall report each instance in which it proposes to "deviate" from a "recommendation" of the investment bank. The Committee initially represented to the Department that such arrangement would help to minimize the likelihood of a conflict inherent in retaining one Independent Fiduciary to manage the securities of more than one Separate Retiree Account.

However, the Committee now proffers that this requirement may not be practical, in light of information gained during the process of interviewing and selecting the Independent Fiduciaries in connection with the GM, Chrysler and Ford exemption applications. The Committee notes that, typically, an investment bank will not "recommend" a single, specific course of action, but through a dialogue with the Independent Fiduciary will present, discuss, modify and refine various options and scenarios that the Independent Fiduciary ultimately will use in making its decisions as a fiduciary. Thus, the Committee argues that it would not be feasible for the Independent Fiduciary to report back to the Committee when it proposes to deviate from a specific recommendation, given that interactions between the Independent Fiduciary and an investment bank generally lack a single, identifiable "recommendation" (either orally or in writing) that the Independent Fiduciary does or does not intend to follow.

Moreover, the Committee contends that some investment banker recommendations are unlikely ever to raise conflict issues. For instance, the Committee notes that an investment bank may develop a preliminary valuation of certain GM securities of $xx, and after thorough consideration, the Independent Fiduciary may determine that such securities are actually worth $yy. In such event, the Committee asserts that the Independent Fiduciary's valuation might be viewed as a "deviation" from the initial recommendation but is unlikely to raise any conflict vis-à-vis any securities held by the VEBA Trust.

The Committee is also concerned that the requirement for the Committee to review the reported deviations will cause the Committee to interpose itself between the two parties before such parties have reached a consensus. In this event, the Committee is concerned that it may have an implied obligation to substitute its judgment for that of the Independent Fiduciary.

The Department concurs with the Committee's comment that their initial representation that the Independent Fiduciary would report any deviations from the recommendation of the

[13] In reaching this conclusion, it is the Department's understanding, based on the Committee's representations, that the fees paid to a single investment bank to provide valuation services or long-term investment consulting on behalf of two or more Separate Retiree Accounts will not be contingent upon the success or size of an offering or sale, and for each Separate Retiree Account, the investment bank's recommendations are made solely with the goal of maximizing the returns for such Account.

investment bank raises operational issues. Nevertheless, the Department notes that the Independent Fiduciary and the Committee are not relieved from their fiduciary duties under ERISA in carrying out their respective responsibilities. There may be circumstances where the Independent Fiduciary has a responsibility under ERISA to inform the conflicts monitor or the Committee of a deviation from the investment bank's recommendations, and the Committee, as part of its oversight responsibility, may need to take appropriate action based on such disclosure. Subject to the caveat above, the Department takes note of these clarifications and updates to the Summary of Facts and Representations of the Notice.

Conditions Applicable in the Event That the Committee Appoints a Single Independent Fiduciary

The Committee requested confirmation that certain terms and conditions described in the Summary of Facts and Representations of the Notice and incorporated into Sections II(b)(1) through (3) of the proposed exemption would apply only if and to the extent that the same Independent Fiduciary is appointed to represent two or more Separate Retiree Accounts.

Sections II(b)(1) through (3) of the proposed exemption provide that the Committee will take certain steps to mitigate potential conflicts of interest, including the appointment of a conflicts monitor, the adoption of procedures to facilitate prompt replacement of the Independent Fiduciary due to a conflict of interest, the adoption of a written policy by the Independent Fiduciary regarding conflicts, and the periodic reporting of actual or potential conflicts. Additionally, the Summary of Facts and Representations provides that a separate investment bank will be retained with respect to each Separate Retiree Account, and in the event that the Independent Fiduciary deviates from the "initial recommendations" of an investment bank, "it would find it necessary to explain why it deviated from a recommendation."

The Department concurs with the Committee, that the terms and conditions described above will apply only if and to the extent that the same Independent Fiduciary is appointed to represent two or more Separate Retiree Accounts. Notwithstanding the above, nothing in the final exemption would preclude the Committee from adopting procedures similar to those described in Sections II(b)(1) through (3) of the proposed exemption in furtherance of its oversight responsibilities. However, the Department believes that the requirement that the Independent Fiduciary retain separate investment banks with respect to each Separate Retiree Account, subject to the limitations described above, applies regardless of how many Separate Retiree Accounts are represented by the same Independent Fiduciary.

Investment Bank's Acknowledgement That the New Plan Is Its Ultimate Client

Section II(e) of the proposed exemption provides that "any contract between the Independent Fiduciary and an investment banker includes an acknowledgement by the investment banker that the investment banker's ultimate client is an ERISA Plan." In assisting the Department in formulating the conditions of the proposed exemption, the Committee represented to the Department that such acknowledgement would be helpful in the event that the Committee is forced to replace the Independent Fiduciary (such as in the event of an irreconcilable conflict). The Committee reasoned that this requirement would ensure that, in the event the Independent Fiduciary was replaced, the investment banker would continue to represent the New Plan and work with the replacement Independent Fiduciary.

After conducting interviews and consulting with numerous parties in its search for an independent fiduciary to manage the securities received by the New Plan, the Committee has raised concerns regarding such condition. The Committee has requested that the Department confirm that this condition will not cause the investment bank to become a fiduciary or otherwise obligate the investment bank or the Independent Fiduciary to provide to the Committee any of the investment bank's work product except upon request, nor will it obligate the Committee to request or review any such work product. The Committee contends that the Independent Fiduciary is both a named fiduciary and an investment manager, thus it should be free within the parameters of its contract to determine what information it shares with the Committee.

The Department confirms that the requirement that the investment banker acknowledge that its ultimate client is the New Plan will not, by itself, make the investment banker a fiduciary of the New Plan. Rather, whether an investment banker referred to in Section II of the exemption becomes a fiduciary as a result of its provision of services depends on whether it meets the definition of a "fiduciary" as set forth in section 3(21) of ERISA and the regulations promulgated thereunder.

Obligation of the Committee To Review the Investment Banker Reports

As described in the Summary of Facts and Representations of the Notice, several safeguards are provided to reduce the risk of conflict in the event that a single independent fiduciary is retained with respect to more than one Separate Retiree Account. Specifically, in assisting the Department to formulate these procedures, the Committee had suggested that a "conflicts monitor" would develop a process for identifying potential conflicts. As a result, the Department added Section II(b)(1)(ii) of the proposed exemption, which provides that a conflicts monitor appointed by the Committee "regularly review the * * * investment banker reports * * * to identify the presence of factors that could lead to a conflict[.]"

After conducting interviews with candidates for the Independent Fiduciary position, the Committee has raised a concern regarding the conflicts monitor's duties. The Committee has requested confirmation that Section II(b)(1)(ii) does not independently impose any obligation on the Committee to provide (or request) "investment banker reports" as a matter of course (*i.e.,* beyond ERISA's general fiduciary requirements). In its comment letter, the Committee notes that it may be appropriate for the conflicts monitor or the Committee (or any subcommittee with delegated authority) to review investment banker reports when provided to them by the Independent Fiduciary, or to request such reports under certain circumstances. However, the Committee maintains that such reports may contain information that is confidential or proprietary, or preliminary, or simply irrelevant to its responsibilities. Furthermore, according to the Committee, it is not clear what constitutes a "report," with the result that informal notes and/or emails may fall under the definition.

The Department concurs with the Committee that Section II(b)(1)(ii) of the exemption does not independently impose an affirmative obligation on the Committee to provide (or request) "investment banker reports" as a matter of course beyond ERISA's general fiduciary requirements.

Definition of "Securities"

The Committee sought written clarification and confirmation from the Department as to the scope of the exemptive relief provided under the proposed exemption with respect to

certain transactions involving securities held by the New Plan.

Section I(a)(1)–(3) of the proposed exemption provides relief from the restrictions of sections 406(a)(1)(A) 406(a)(1)(B), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2) and 407(a) of ERISA for the New Plan's acquisition and holding of the New GM Common Stock, the Preferred Stock, the Note, the Warrants, and additional shares of New GM Common Stock acquired pursuant to exercise of the Warrants (collectively defined as the Securities) if the proposed exemption is granted by the Department. Additionally, Section I(a)(4) of the proposed exemption provides relief for the disposition of the Securities by the Independent Fiduciary, if the exemption is granted.[14] The term "Securities" is defined in Section VI(o) as "(i) The New GM Common Stock; (ii) the Preferred Stock; (iii) the Note; (iv) the Warrants; and (v) additional shares of New GM Common Stock acquired pursuant to exercise of the Warrants." The term Warrants is defined in Section VI(q) as "warrants to acquire shares of New GM Common Stock, par value $0.01 per share, issued by New GM." The Committee questions whether the relief proposed would include securities of New GM such as warrants, common stock, notes and other New GM securities (Other GM Securities) that are acquired and held by the New Plan as a result of disposition of some or all of the Securities by the Independent Fiduciary, in a transaction in which the consideration the New Plan receives consists in whole or in part of Other GM Securities or in exchange for some or all of the Securities currently held by the New Plan.[15] For example, the Committee states that the Independent Fiduciary may find it in the interest of the New Plan and its participants and beneficiaries to sell Warrants to New GM in exchange for cash and replacement warrants of shorter/longer duration or with a different strike price.[16] The Committee also sought to clarify whether the exemption would cover (i) New GM Common Stock acquired through exercise of Warrants, and (ii) other securities of New GM in exchange for all or some of the Securities then held by the New Plan due to a corporate transaction or restructuring of GM. The Committee notes that the Independent Fiduciary does not have the authority to vote the New GM Common Stock, and therefore, the Independent Fiduciary may have little, if any, ability to affect the negotiation and ultimate approval of any such corporate transaction.

In response to the above-reference comments, the Department confirms that the exemption provides relief for other New GM-issued warrants acquired in exchange for Warrants held by the New Plan at the direction of the Independent Fiduciary, and such relief also extends to additional shares of New GM Common Stock or other New GM-issued warrants acquired in exchange for New GM Common Stock or Warrants held by the New Plan in connection with a restructuring, recapitalization, merger or other corporate transaction involving New GM. The Department has revised Section I(a)(1) and the definitions of Securities and Warrants in Section VI of the final exemption to incorporate this clarification. The Department further confirms that the exemption provides relief for the acquisition, holding and disposition of additional shares of New GM Common Stock acquired through exercise of Warrants.

Old GM Bonds

In its March 16, 2010 comment, the Committee informed the Department that a very small percentage of Old GM senior corporate debt (Old GM Bonds) was transferred to the VEBA Trust as part of the transfer of assets from the existing GM Internal VEBA. The Old GM Bonds were held in a fund known as CCM Pension-C, L.L.C., managed by Contrarian Capital Management, LLC (Contrarian). The VEBA Trust is the sole limited partner in the fund with an approximately 99.4% interest while Contrarian, as the general partner, holds a 0.6% interest. As of March 31, 2010, the estimated overall net asset value of the fund was $128,842,109. The Old GM Bonds were valued at $787,705 in total, and therefore represented 0.61% of the portfolio. The Committee stated that although attempts were made to determine the exact composition of underlying assets of each fund held by the GM Internal VEBA, in some cases complete portfolio information was not available until after the closing of the transfer. The Committee subsequently informed the Department that the Old GM Bonds were sold by Contrarian on April 16, 2010.

The Committee requested that relief be provided for the acquisition and holding of the Old GM Bonds by the New Plan retroactive to January 1, 2010, through April 16, 2010. The Old GM Bonds were held in the GM Separate Retiree Account of the VEBA Trust; at no time were they held in the GM Employer Security Sub-Account thereof. The Committee made the point that Contrarian, which it understands to be independent of General Motors, acted as an independent fiduciary with respect to the continued holding of the Old GM Bonds. The Committee further noted that Contrarian alone made the decision to sell the Old GM bonds.

New GM responded to the Committee's comment by asserting that the Old GM Bonds should not be considered employer securities for which relief would be required under ERISA sections 406 and 407, as Old GM has not had hourly employees at any time since the assets were transferred to the New Plan, and New GM did not assume the Old GM Bonds or any liability associated therewith in the Section 363 Sale. Notwithstanding New GM's response, Old GM appears to be a party in interest to the New Plan under ERISA section 3(14)(H) by virtue of its ownership of 10% of more of the equity securities of New GM,[17] and the New Plan's holding of debt of Old GM is prohibited under ERISA section 406(a)(1)(B). Accordingly, exemptive relief is required. As the Department intended to provide relief necessary to maximize the funding of the New Plan in accordance with the Modified Settlement Agreement, the Department has modified Section I of the exemption to specifically incorporate relief for the acquisition and holding of the Old GM Bonds retroactive to January 1, 2010, through April 16, 2010.

Independent Fiduciary Comment

Fiduciary Counselors Inc. (FCI) was selected as the Independent Fiduciary for the New GM securities held by the New Plan. FCI repeated concerns identified by the Committee with respect to the role of the Independent Fiduciary and the investment bank in

[14] As noted above, at the request of New GM and in the interests of clarity, the Department has in this final exemption merged Section I(a)(1) and (2) of the proposed exemption, and renumbered the remaining subsections of Section I(a). Therefore, Section I(a)(4) of the proposed exemption has been renumbered Section I(a)(3) in this final exemption.

[15] The Committee states that any such transaction would be entered into only after the Independent Fiduciary has met all the conditions precedent to entering into such a transaction as set forth in Section II of the exemption, including, but not limited to determining that the transaction is feasible, in the interests of the New Plan, and protective of the rights of the participants and beneficiaries of the New Plan. The Committee also represents that the Independent Fiduciary would obtain a valuation of any securities involved in the transaction.

[16] The Committee notes that it is not suggesting that transactions which would fundamentally alter the terms of the Modified Settlement Agreement are being contemplated.

[17] Old GM received 50,000,000 shares of New GM Common Stock, or 10% of New GM's common equity, in the Section 363 Sale.

the event that a single Independent Fiduciary is appointed for the employer securities of more than one Separate Retiree Account comprising the VEBA Trust. Specifically, FCI was concerned about the requirement that a separate investment bank will be retained with respect to each of the three plans. FCI indicated that requiring separate investment banks in all circumstances could be unnecessarily costly to the plans involved. It requested flexibility in deciding whether to retain a separate investment bank, or in the event the separate investment bank requirement was retained, that the Department clarify that the Independent Fiduciary has the authority to determine when it is necessary to retain an investment bank. According to FCI, having an investment bank on retainer, when no transactions are contemplated, would needlessly drive up the VEBA Trust's expenses. The Department responded to some of FCI's concerns in its discussion of the Committee's comment, above. The Department additionally confirms that the exemption does not require that the Independent Fiduciary retain an investment bank at all times.

FCI also expressed concern that, despite the VEBA Trust possessing certain information rights under the various agreements, including the right to financial statement information, it did not believe that it would have access to all of the information necessary to evaluate and value the New GM Securities during the period before the New GM securities are publicly traded. FCI requested that the Department include a requirement in the final exemption that New GM provide the Independent Fiduciary with such information as the Independent Fiduciary reasonably requests to fulfill its duties to the VEBA Trust under the exemption, for so long as the New GM Securities are not publicly traded. FCI indicated willingness to enter into appropriate confidentiality agreements to protect any non-public information.

In the period since FCI submitted this comment, the Department understands that New GM and FCI have negotiated at length in an effort to reach agreement on the extent of the information that would be provided by New GM to FCI for purposes of valuing the Securities. New GM declined to provide certain of the requested information sought by FCI on grounds of confidentiality and sensitivity of the information sought. In the absence of agreement on the specific information to be provided, the parties attempted to agree on a process by which an independent third party would make a determination as to the necessity for valuation purposes of the information being sought by FCI. The parties entertained the possibility that one of the "Big Four" public accounting firms would make such determination but could not agree on the scope of the assignment.

In response to FCI's comment, the Department has determined to include a condition in the final exemption which specifically addresses the disclosure of financial information by New GM for FCI's use in valuing the New GM Securities. In this regard, the Department has determined that it would be appropriate for one of the "Big Four" public accounting firms to determine whether the information sought by the Independent Fiduciary is necessary, pursuant to applicable accounting standards, for valuing securities of a privately-held company. Under this requirement, in the event that New GM declines to provide financial information requested by the Independent Fiduciary for valuation purposes, New GM will engage, at its expense, one of the "Big Four" public accounting firms that is acceptable to the Independent Fiduciary (Accountant) to determine whether the information sought by the Independent Fiduciary is necessary for valuation purposes. The Department expects that the Accountant will base its conclusion on whether or not the information in question would be necessary to provide an opinion as to the fair value of the Securities as of the relevant date, consistent with ASC 820 on Fair Value Measurements and the AICPA Statement on Valuation Services. New GM will provide such information to the Independent Fiduciary as the Accountant determines necessary for valuation purposes according to the standard set forth above. The Department expects that the parties will work to ensure that any dispute regarding the disclosure of information will be resolved as expeditiously as possible in order to ensure that the Independent Fiduciary has timely access to information deemed necessary for valuation.

Finally, FCI noted that, prior to FCI's appointment as Independent Fiduciary, New GM underwent a corporate reorganization and certain adjustments were made in the New GM Securities to reflect the reorganization of the GM controlled group. FCI requested that the Department clarify that FCI, as Independent Fiduciary, has responsibility only for transactions related to the New GM securities that occurred after its appointment. The Department concurs with this statement.

Conclusion

The Department has carefully considered the issues expressed by the commenters both in written comments and telephone calls. After consideration of all the participant comments and documentation provided, the Department has concluded that no "material factual issues" were identified by the commenters that would warrant a public hearing under the Department's regulations at 29 CFR § 2570.46. After giving full consideration to the entire record, the Department has determined to grant the exemption subject to the modifications and clarifications described herein. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice, at 74 FR 47963 (September 18, 2009).

Exemption

Section I—Covered Transactions [18]

(a) The restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2) and 407(a) of ERISA shall not apply, effective July 10, 2009, to:

(1) The acquisition by the UAW GM Retiree Medical Benefits Plan (the New UAW–GM Retirees Plan) and its associated UAW Retiree Medical Benefits Trust (the VEBA Trust) (the New Plan) of: (i) 87,500,000 shares of common stock of General Motors Company (New GM) (the New GM Common Stock) representing 17.5% of New GM equity; (ii) $6.5 billion of Series A Fixed Rate Cumulative Perpetual Preferred stock of New GM (the Preferred Stock); (iii) a note issued by New GM and assigned to General Motors Holdings LLC with a principal amount of $2.5 billion (the Note); (iv) warrants to acquire New GM Common Stock representing 2.5% of New GM equity (the Warrants); and (v) additional shares of New GM Common Stock acquired pursuant to (A) the Independent Fiduciary's exercise of the Warrants, and (B) an adjustment, substitution, conversion or other modification of New GM Common Stock in connection with a reorganization, restructuring, recapitalization, merger, or similar corporate transaction, provided that each holder of New GM Common Stock is treated in an identical manner (collectively, the Securities), transferred by New GM and deposited in the GM Employer Security Sub-

[18] Because the New Plan will not be qualified under section 401 of the Internal Revenue Code of 1986, there is no jurisdiction under Title II of the Act pursuant to section 4975 of the Code. However, there is jurisdiction under Title I of the Act.

Account of the GM Separate Retiree Account of the VEBA Trust.

(2) The holding by the New Plan of the Securities in the GM Employer Security Sub-Account of the GM Separate Retiree Account of the VEBA Trust; and

(3) The disposition of the Securities.

(b) The restrictions of sections 406(a)(1)(B), 406(a)(1)(D), 406(b)(1) and 406(b)(2) of ERISA shall not apply, effective July 10, 2009, to:

(1) The payment by Old GM, New GM, the Old GM Plan, the New GM Plan or the New Plan of a benefit claim that was the responsibility and legal obligation, under the terms of the applicable plan documents, of one of the other parties listed in this paragraph; and

(2) The reimbursement by Old GM, New GM, the Old GM Plan, the New GM Plan, or the New Plan, of a benefit claim that was paid by another party listed in this paragraph, which was not legally responsible for the payment of such claim, plus interest.

(c) The restrictions of sections 406(a)(1)(B), 406(a)(1)(D), 406(b)(1) and 406(b)(2) of ERISA shall not apply, effective July 10, 2009, to the return to New GM of assets deposited or transferred to the New Plan by mistake, plus interest.

(d) The restrictions of sections 406(a)(1)(B), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2) and 407(a) of ERISA shall not apply, effective January 1, 2010, through April 16, 2010, to the acquisition and holding by the New Plan of Old GM senior corporate debt held in the CCM Pension-C, L.L.C. fund managed by Contrarian Capital Management, LLC.

Section II–Conditions Applicable to Section I(a)

(a) The Committee appoints a qualified Independent Fiduciary to act on behalf of the New Plan for all purposes related to the transfer of the Securities to the New Plan for the duration of the New Plan's holding of the Securities. Such Independent Fiduciary will have sole discretionary responsibility relating to the holding, ongoing management and disposition of the Securities, except for the voting of the New GM Common Stock. The Independent Fiduciary has determined or will determine, before taking any actions regarding the Securities, that each such action or transaction is in the interest of the New Plan.

(b) In the event that the same Independent Fiduciary is appointed to represent the interests of one or more of the other plans comprising the VEBA Trust (i.e., the UAW Chrysler Retiree Medical Benefits Plan and/or the UAW Ford Retiree Medical Benefits Plan) with respect to employer securities deposited into the VEBA Trust, the Committee takes the following steps to identify, monitor and address any conflict of interest that may arise with respect to the Independent Fiduciary's performance of its responsibilities:

(1) The Committee appoints a "conflicts monitor" to: (i) Develop a process for identifying potential conflicts; (ii) regularly review the Independent Fiduciary reports, investment banker reports, and public information regarding the companies, to identify the presence of factors that could lead to a conflict; and (iii) further question the Independent Fiduciary when appropriate.

(2) The Committee adopts procedures to facilitate prompt replacement of the Independent Fiduciary if the Committee in its sole discretion determines such replacement is necessary due to a conflict of interest.

(3) The Committee requires the Independent Fiduciary to adopt a written policy regarding conflicts of interest. Such policy shall require that, as part of the Independent Fiduciary's periodic reporting to the Committee, the Independent Fiduciary includes a discussion of actual or potential conflicts identified by the Independent Fiduciary and options for avoiding or resolving the conflict.

(c) The Independent Fiduciary authorizes the trustee of the New Plan to dispose of the New GM Common Stock (including additional shares of New GM Common Stock acquired pursuant to exercise of the Warrants), the Preferred Stock, and/or the Note, or exercise the Warrants, only after the Independent Fiduciary determines, at the time of the transaction, that the transaction is feasible, in the interest of the New Plan, and protective of the rights of participants and beneficiaries of the New Plan.

(d) The Independent Fiduciary negotiates and approves on behalf of the New Plan any transactions between the New Plan and any party in interest involving the Securities that may be necessary in connection with the subject transactions (including but not limited to the registration of the securities contributed to the New Plan).

(e) Any contract between the Independent Fiduciary and an investment banker includes an acknowledgement by the investment banker that the investment banker's ultimate client is an ERISA plan.

(f) The Independent Fiduciary discharges its duties consistent with the terms of the New Plan, the trust agreement, the Independent Fiduciary Agreement, and any other documents governing the employer securities, such as the Registration Rights Agreement.

(g) The New Plan incurs no fees, costs or other charges (other than described in the trust agreement and the Modified Settlement Agreement) as a result of the transactions exempted herein.

(h) The terms of any transaction exempted herein are no less favorable to the New Plan than the terms negotiated at arms' length under similar circumstances between unrelated parties.

(i) New GM furnishes the financial information necessary for the Independent Fiduciary to value the Securities for the period before the New GM securities are publicly traded. Notwithstanding the foregoing, if New GM declines to furnish the financial information requested by the Independent Fiduciary, New GM will engage, at its own expense, one of the "Big Four" public accounting firms that is acceptable to the Independent Fiduciary (Accountant), to determine whether, pursuant to applicable accounting standards, the requested information is necessary for valuing securities of a privately-held company. New GM will furnish such financial information to the Independent Fiduciary as the Accountant deems necessary for the valuation.

Section III–Conditions Applicable to Section I(b)

(a) The Committee and the New Plan's third party administrator will review the benefits paid during the transition period and determine the dollar amount of mispayments made, if any, subject to the review of the VEBA Trust's independent auditor. The results of this review will be made available to Old GM and New GM.

(b) Old GM and New GM and their respective plans' third party administrator(s), as applicable, will review the benefits paid during the transition period and determine the dollar amount of mispayments made, if any, subject to the review of the respective plans' independent auditor. The results of this review will be made available to the Committee.

(c) Interest on any reimbursed mispayment will accrue from the date of the mispayment to the date of the reimbursement.

(d) Interest will be determined using the applicable OPEB discount rate.[19]

[19] OPEB means Other Post-Employment Benefits, and typically includes retiree healthcare benefits, life insurance, tuition assistance, day care, legal

Continued

(e) If there is a dispute as to the amount of a reimbursement requested, the parties will enter into a dispute procedure set forth in section 26D of the Modified Settlement Agreement.

Section IV–Conditions Applicable to Section I(c)

(a) New GM must make a claim to the Committee regarding the specific deposit or transfer made in error or made in an amount greater than that to which the New Plan was entitled.

(b) The claim is made within the Verification Time Period, as defined in Section VI(r).

(c) Interest on any mistaken deposit or transfer will accrue from the date of the mistaken payment to the date of the repayment.

(d) Interest will be determined using the applicable OPEB discount rate.

(e) If there is a dispute as to the amount of a mistaken payment, the parties will enter into a dispute procedure set forth in section 26D of the Modified Settlement Agreement.

Section V–Conditions Applicable to Section I(a), (b) and (c)

(a) The Committee and the Independent Fiduciary maintain for a period of six years from (i) the date the Securities are transferred to the New Plan, and (ii) the date the shares of New GM Common Stock are acquired by the New Plan through the exercise of the Warrants, the records necessary to enable the persons described in paragraph (b) below to determine whether the conditions of this exemption have been met, except that (i) a separate prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Committee and/or the Independent Fiduciary, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than the Committee or the Independent Fiduciary shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination as required by paragraph (b) below; and

(b) Except as provided in paragraph (c) below and notwithstanding any provisions of subsections (a)(2) and (b) of ERISA section 504, the records referred to in paragraph (a) above shall be unconditionally available at their customary location during normal business hours to:

(1) Any duly authorized employee or representative of the Department;

(2) New GM or any duly authorized representative of New GM;

(3) The UAW or any duly authorized representative of the UAW;

(4) In the case of records maintained by the Committee, the Independent Fiduciary or any duly authorized representative of the Independent Fiduciary;

(5) In the case of records maintained by the Independent Fiduciary, the Committee or any duly authorized representative of the Committee; and

(6) Any participant or beneficiary of the New Plan or any duly authorized representative of such participant or beneficiary.

(c)(1) As to records maintained by the Independent Fiduciary relating to the conditions applicable to Section I(a), the UAW, Committee and any participant or beneficiary of the New Plan, including any duly authorized representatives of each, shall not be authorized to examine trade secrets of New GM, or New GM commercial or financial information that is privileged or confidential, including but not limited to records described as "Confidential Information" in the Confidentiality Agreement between New GM and the New Plan, unless New GM approves of their disclosure. Should New GM refuse to approve the disclosure of such information, New GM shall, by the close of the thirtieth (30th) day following the request, provide written notice advising that person of the reason for the refusal and that the Department may request such information.

(2) As to records maintained by the Committee, the Independent Fiduciary, UAW, and any participant or beneficiary of the New Plan, including any duly authorized representatives of each, shall not be authorized to examine the trade secrets of New GM, or New GM commercial or financial information that is privileged or confidential, unless New GM approves of the disclosure. Should New GM refuse to approve the disclosure of information pursuant to this paragraph, New GM shall, by the close of the thirtieth (30th) day following the request, provide written notice advising that person of the reason for the refusal and that the Department may request such information.

Section VI—Definitions

(a) The term "affiliate" means: (1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person; (2) Any officer, director, partner, or employee in any such person, or relative (as defined in section 3(15) of ERISA) of any such person; or (3) Any corporation, partnership or other entity of which such person is an officer, director or partner. (For purposes of this definition, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(b) The "Committee" means the eleven individuals consisting of six independent members and five UAW appointed members who will serve as the plan administrator and named fiduciary of the New Plan.

(c) The term "New GM Common Stock" means the shares of common stock, par value $0.01 per share, issued by New GM.

(d) The term "GM Employer Security Sub-Account of the GM Separate Retiree Account of the VEBA Trust" means the sub-account established in the GM Separate Retiree Account of the VEBA Trust to hold New GM securities on behalf of the New Plan.

(e) The term "Implementation Date" means December 31, 2009.

(f) The term "Independent Fiduciary" means a fiduciary that is (i) independent of and unrelated to Old GM, New GM, the UAW, the Committee, and their affiliates, and (ii) appointed to act on behalf of the New Plan with respect to the holding, management and disposition of the Securities. In this regard, the fiduciary will not be deemed to be independent of and unrelated to Old GM, New GM, the UAW, the Committee, and their affiliates if (1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with Old GM, New GM, the UAW, the Committee or their affiliates, (2) such fiduciary directly or indirectly receives any compensation or other consideration from Old GM, New GM, the UAW or any Committee member in his or her individual capacity in connection with any transaction contemplated in this exemption (except that an independent fiduciary may receive compensation from the Committee or the New Plan for services provided to the New Plan in connection with the transactions discussed herein if the amount or payment of such compensation is not contingent upon or in any way affected by the independent fiduciary's ultimate decision), and (3) the annual gross revenue received by the fiduciary, in any fiscal year, from Old GM, New GM, the UAW or a member of the Committee in his or her individual capacity, exceeds 3% of the fiduciary's annual gross revenue from all sources (for federal income tax purposes) for its prior tax year.

services and the like. The OPEB discount rate is a rate used to discount projected future OPEB benefits payment cash flows to determine the present value of the OPEB obligation.

(g) The term "Modified Settlement Agreement" means The UAW Retiree Settlement Agreement between New GM and the UAW dated July 10, 2009.

(h) The term "New GM" means General Motors Company, the company that acquired certain assets and liabilities of Old GM pursuant to the Section 363 Sale.

(i) The term "Note" means the note issued by General Motors Company and assigned to General Motors Holdings LLC with a principal amount of $2.5 billion.

(j) The term "New GM Plan" means the retiree medical benefits plan maintained by New GM that provides benefits to most of the same individuals as are covered by the Old GM Plan, from the date of the Section 363 Sale until the Implementation Date of the New Plan.

(k) The term "Old GM" means the company that remains in bankruptcy protection after the Section 363 Sale.

(l) The term "Old GM Plan" means the retiree medical benefits plan maintained by Old GM that provided benefits to, among others, those who will be covered by the New Plan.

(m) The term "Preferred Stock" means shares of Series A Fixed Rate Cumulative Perpetual Preferred Stock, par value $0.01 per share, issued by New GM.

(n) The term "Section 363 Sale" means a sale under section 363 of Title 11 of the U.S. Code, by which on July 10, 2009, New GM succeeded to certain assets and liabilities of Old GM.

(o) The term "Securities" means (i) the New GM Common Stock; (ii) the Preferred Stock; (iii) the Note; (iv) the Warrants; and (v) additional shares of New GM Common Stock acquired in accordance with the transactions described in Section I(a)(1)(v).

(p) The term "UAW" means the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America.

(q) The term "Warrants" means warrants to acquire shares of New GM Common Stock, par value $0.01 per share, issued by New GM. For purposes of this definition, the term "Warrants" includes additional warrants to acquire New GM Common Stock acquired in partial or complete exchange for, or adjustment to, the warrants described in the preceding sentence, at the direction of the Independent Fiduciary or pursuant to a reorganization, restructuring or recapitalization of New GM as well as a merger or similar corporate transaction involving New GM (each, a corporate transaction), provided that, in such corporate transaction, similarly suited warrantholders, if any, will be treated the same to the extent that the terms of such warrants and/or rights of such warrantholders are the same.

(r) The term "Verification Time Period" means: (i) With respect to all Securities other than the Note, the period beginning on the date of publication of this final exemption in the **Federal Register** and ending 60 calendar days thereafter; (ii) with respect to each payment pursuant to the Note, the period beginning on the date of the payment and ending 90 calendar days thereafter; (iii) with respect to the UAW-Related Account of the Internal VEBA, the period beginning on the date of publication of this final exemption in the **Federal Register** (or, if later, the date of the transfer of the UAW-Related Account to the New Plan) and ending 180 calendar days thereafter; and (iv) with respect to the Mitigation VEBA, the period beginning on the date of publication of this final exemption in the **Federal Register** and ending 60 calendar days thereafter.

(s) The term "New Plan" means the UAW GM Retiree Medical Benefits Plan (the New UAW–GM Retirees Plan) and its associated UAW Retiree Medical Benefits Trust (the VEBA Trust).[20]

(t) The term "Registration Rights Agreement" means the Equity Registration Rights Agreement by and among New GM, the U.S. Treasury, Canada, the VEBA Trust and Old GM, entered into on July 10, 2009.

FOR FURTHER INFORMATION CONTACT: Karen E. Lloyd, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8554. (This is not a toll-free number.)

Signed at Washington, DC, this 6th day of October 2010.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2010–25686 Filed 10–12–10; 8:45 am]

BILLING CODE 4510–29–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

DATE AND TIME: The Legal Services Corporation Board of Directors will meet on October 18–19, 2010. On Monday, October 18, the meeting will commence at 2 p.m., Eastern Time. On Tuesday, October 19, the first meeting will commence at 8 a.m., Eastern Time. On each of these two days, each meeting other than the first meeting of the day will commence promptly upon adjournment of the immediately preceding meeting.

LOCATION: The Hyatt Regency Hotel, 320 West Jefferson Street, Louisville, Kentucky 40202.

PUBLIC OBSERVATION: Unless otherwise noticed, all meetings of the LSC Board of Directors are open to public observation. Members of the public that are unable to attend but wish to listen to a public proceeding may do so by following the telephone call-in directions given below. You are asked to keep your telephone muted to eliminate background noises. From time to time the presiding Chair may solicit comments from the public.

Call-In Directions For Open Sessions:

- Call toll-free number: 1 (866) 451–4981;
- When prompted, enter the following numeric pass code: 5907707348;
- When connected to the call, please "MUTE" your telephone immediately.

MEETING SCHEDULE

	Time [1]
Monday, October 18, 2010	
1. Promotion & Provision for the Delivery of Legal Services Committee ("Promotion & Provision Committee")	2 p.m.
2. Governance & Performance Review Committee	
3. Finance Committee	

[20] In the notice of proposed exemption, the term "the VEBA" was used to define collectively the UAW GM Retiree Medical Benefits Plan (the New UAW–GM Retirees Plan) and its associated UAW Retiree Medical Benefits Trust (the VEBA Trust).

[1] Please note that all times in this notice are in the *Eastern Time* zone.

MEETING SCHEDULE—Continued

	Time [1]
Tuesday, October 19, 2010	
1. Operations & Regulations Committee 2. Audit Committee 3. Board of Directors	8 a.m.

STATUS OF MEETING: Open, except as noted below.

• *Board of Directors*—Open, except that a portion of the meeting of the Board of Directors may be closed to the public pursuant to a vote of the Board of Directors to consider and perhaps act on the General Counsel's report on potential and pending litigation involving LSC, to hear a briefing from management on labor relations matters, and to be briefed by LSC's Inspector General.[2]

A *verbatim* written transcript will be made of the closed session of the Board meeting. However, the transcript of any portions of the closed session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(2) and (9)(B), and the corresponding provisions of the Legal Services Corporation's implementing regulation, 45 CFR 1622.5(a) and (g), will not be available for public inspection. A copy of the General Counsel's Certification that in his opinion the closing is authorized by law will be available upon request.

Matters To Be Considered

Monday, October 18, 2010

Promotion and Provision For The Delivery of Legal Services Committee

Agenda

1. Approval of Agenda.
2. Approval of Minutes of the Committee's meeting of July 30, 2010.
3. Consider and act on planning and agenda items for the upcoming year.
4. Staff report on LSC's Initiatives Regarding Services to Persons with Limited English Proficiency.
5. Public comment.
6. Consider and act on other business.
7. Consider and act on adjournment of meeting.

[2] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552b(a)(2) and (b). *See also* 45 CFR 1622.2 & 1622.3.

Governance and Performance Review Committee

Agenda

1. Approval of agenda.
2. Approval of minutes of the Committee's telephonic meeting of August 26, 2010.
3. Staff report on:
   a. Virtual Board Manual.
   b. Board and Committee Self Evaluation process for 2010.
   c. New Board member orientation.
   d. Progress on implementation of GAO recommendations.
4. Report on developments in LSC research agenda.
5. Consider and act on nature, process, and timing of IG Evaluation.
6. Consider and act on a proposal to amend the Governance and Performance Review Charter to include all officers of the corporation as under the evaluation jurisdiction of the Committee (a proposal from Charles Keckler).
7. Consider and act on other business.
8. Public Comment.
9. Consider and act on motion to adjourn meeting.

Finance Committee

Agenda

1. Approval of agenda.
2. Approval of the minutes of the meeting of September 21, 2010.
3. Presentation on LSC's Financial Reports for period ending August 31, 2010.
   • Presentation by David Richardson
4. Staff report on status of FY 2011 appropriations process.
   a. Presentation by John Constance.
5. Consider and act on *Resolution* # 2010–0XX, Temporary Operating Budget for FY 2011.
   • Presentation by David Richardson.
6. Consider and act on *Resolution* # 2010–0XX, authorizing Management to amend the 403(b) retirement plan consistent with the "HEART Act."
   • Presentation by Alice Dickerson (*by telephone*)
7. Public comment.
8. Consider and act on other business.
9. Consider and act on adjournment of meeting.

Tuesday, October 19, 2010

Operations & Regulations Committee

Agenda

Open Session

1. Approval of agenda.
2. Approval of minutes of the Committee's meetings of:
   a. August 17, 2010 (Open Session).
   b. August 17, 2010 (Closed Session).
   c. July 30, 2010 (Open Session).
   d. July 31, 2010 (Closed Session).
3. Staff Report on end of current Strategic Directions and consider and act on transitional next steps.
   a. Presentation by Mattie Cohan, Senior Assistant General Counsel.
4. Consider and act on Draft Advanced Notice of Potential Rulemaking regarding amendment of the Sunshine Act regulations 45 CFR Part 1622 to exempt certain committees.
   a. Presentation by Mattie Cohan, Senior Assistant General Counsel.
   b. Comments by Laurie Tarantowicz, Assistant Inspector General and Legal Counsel.
   c. Public Comment.
5. Consider and act on possible initiation of rulemaking on 45 CFR Parts 1609 and/or 1610 to clarify scope of fee-generating case restrictions to non-LSC fund supported cases.
   a. Presentation by Mattie Cohan, Senior Assistant General Counsel.
   b. Comments by Laurie Tarantowicz, Assistant Inspector General and Legal Counsel.
   c. Public Comment.
6. Public comment.
7. Consider and act on other business.
8. Consider and act on adjournment of meeting.

Audit Committee

Agenda

1. Approval of agenda.
2. Approval of minutes of the Committee's July 31, 2010 meeting.
3. Report on Internal Financial Controls.
   • David Richardson, Treasurer and Comptroller
4. Report on timely issuance of OCE and OPP program visit reports
   • Janet LaBella

- Danilo Cardona (*by telephone*)

5. Consider and act on complaint procedure for the audit committee.
6. Briefing by Inspector General.
   Update on the FY 2010 Corporate Audit TIG Report Briefing.
   - Jeffrey Schanz, Inspector General
7. Public comment.
8. Consider and act on other business.
9. Consider and act on adjournment of meeting.

Board of Directors

Agenda

Open Session

1. Pledge of Allegiance.
2. Approval of agenda.
3. Approval of Minutes of the *Board's* Open Session meeting of July 21, 2010.
4. Approval of Minutes of the *Board's* Open Session *Telephonic* meeting of September 21, 2010.
5. *Chairman's* Report.
6. *Members'* Reports.
7. Gulf Coast Update presented by:
   a. James Fry, Executive Director, Legal Services of Alabama.
   b. Mark Moreau, Executive Director, Southeast Louisiana Legal Services.
   c. Samuel Buchanan, Executive Director, Mississippi Center for Legal Services.
8. *President's* Report.
9. *Inspector General's* Report.
10. Consider and act on the report of the *Search Committee for LSC President.*
11. Consider and act on the report of the *Promotion & Provision for the Delivery of Legal Services Committee.*
12. Consider and act on the report of the *Finance Committee.*
13. Consider and act on the report of the *Audit Committee.*
14. Consider and act on the report of the *Operations & Regulations Committee.*
15. Consider and act on the report of the *Governance & Performance Review Committee.*
16. Consider and act on *Resolution 2010*-XXX Authorizing the Board Chairman to Appoint Non-Directors to the Board of Directors' Development Committee.
17. Consider and act on Management request for authorization to increase the maximum number of hours of accrued vacation leave that may be carried over to the next year.
18. *Consider and act on Resolutions 2010–008g-j* thanking outgoing Board Members for their service and contributions to the Legal Services Corporation.
19. Consider and act on Meeting Schedule for calendar year 2011.
20. Public comment.
21. Consider and act on other business.
22. Consider and act on whether to authorize an executive session of the *Board* to address items listed below under *Closed Session.*

Closed Session

23. Approval of Minutes of the *Board's* Closed Session meeting of July 21, 2010.
24. Approval of Minutes of the *Board's* Closed Session meeting of September 21, 2010.
25. IG briefing of the Board.
26. Consider and act on General Counsel's report on potential and pending litigation involving LSC.
27. *Briefing:* Update on Internal Personnel Matters (*by telephone*)
    a. Presentation by Linda Mullenbach, Senior Assistant General Counsel, and Alice Dickerson, Director, Office of Human Resources
28. Consider and act on motion to adjourn meeting.

Contact Person for Information: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov.*

October 7, 2010.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 2010–25790 Filed 10–8–10; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

NAME: Directorate for Mathematical and Physical Sciences Advisory Committee (#66).

DATE/TIME: November 3, 2010 2 p.m.–4 p.m.
November 4, 2010 8 a.m.–6 p.m.
November 5, 2010 8 a.m.–3 p.m.

PLACE: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230:
November 5, Room 1005.
November 6, Room 1235.
November 7, Room 1235.

TYPE OF MEETING: Open.

CONTACT PERSON FOR MORE INFORMATION: Dr. Morris L. Aizenman, Senior Science Associate, Directorate for Mathematical and Physical Sciences, Room 1005, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292–8807.

PURPOSE OF MEETING: To provide advice and recommendations concerning NSF science and education activities within the Directorate for Mathematical and Physical Sciences.

AGENDA: Briefing to new members about NSF and Directorate (11/3).
Update on current status of Directorate.
Reports from liaisons with other Advisory Committees.
Meeting of MPSAC with Divisions within MPS Directorate.
Discussion of MPS Long-term Planning Areas.

SUMMARY MINUTES: May be obtained from the contact person listed above.

Dated: October 7, 2010.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 2010–25685 Filed 10–12–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 12, 2010. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National

Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application No. 2011–020.

1. *Applicant:* Morton Beebe, 150 Lombard Street #808, San Francisco, CA 94111.

Activity for Which Permit Is Requested

Enter and Antarctic Specially Protected Area. The applicant plans to produce a documentary film and book exploring the immense changes to Antarctic habitation and science during the past have century. The applicant plans to enter this historic huts at: ASPA #155—Cape Evans, Ross Island (Scott's Hut); ASPA #157—Backdoor Bay, Cape Royds (Shackleton's Hut); and ASPA #159—Hut Point, Ross Island (Discovery Hut) to videotape, photograph, and audio record the interiors and exteriors of the huts.

Location

ASPA #155—Cape Evans, Ross Island (Scott's Hut); ASPA #157—Backdoor Bay, Cape Royds (Shackleton's Hut); and, ASPA #159—Hut Point, Ross Island (Discovery Hut).

Dates

November 1, 2010 to February 28, 2011.

Nadene G. Kennedy,

Permit Office, Office of Polar Programs.

[FR Doc. 2010–25644 Filed 10–12–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub .L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Modification Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of a requested permit modification.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 12, 2010. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Description of Permit Modification Requested: The Foundation issued a permit (2009–015) to Ron Naveen on August 25,2008. The issued permit allows the applicant to survey and census the plant and animal life at various visited sites within the Antarctica Peninsula as part of an ongoing project, Antarctic Site Inventory, to observe potential disturbances.

The applicant requests a modification to his permit to enter the following ASPA's as time allows to conduct site surveys and census: ASPA 128, Western shore of Admiralty Bay, King George Island, ASPA 132; Potter Peninsula, King George Island; ASPA 133, Harmony Point, Nelson Island; ASPA 134, Cierva Point and Offshore islands, Danco Coast; ASPA 139, Biscoe Point, Anvers Island; ASPA 150, Ardley Island Maxwell Bay; and ASPA 151, Lions RumpO, King George Island.

Location: ASPA 128, Western shore of Admiralty Bay, King George Island, ASPA 132; Potter Peninsula, King George Island; ASPA 133, Harmony Point, Nelson Island; ASPA 134, Cierva Point and Offshore islands, Danco Coast; ASPA 139, Biscoe Point, Anvers Island; ASPA 150, Ardley Island Maxwell Bay; and ASPA 151, Lions RumpO, King George Island.

Dates: November 1, 2010 to August 31, 2013.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2010–25654 Filed 10–12–10; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-020; NRC-2010-0313]

Massachusetts Institute of Technology Research Reactor Environmental Assessment and Finding of No Significant Impact

Correction

In notice document 2010–24809 beginning on page 61220 in the issue of Monday, October 4, 2010, make the following corrections:

1. On page 61221, in the third column, in second line from the bottom of the page, "mCi/ml" should read "μCi/ml".

2. On page 61222, in the first column, in the eleventh line; in the first column, in the fourteenth line; in the second column, in the 28th line; in the second column, in the 30th line; in the second column, in the 39th line; in the second column, in the 42nd line; and in the second column, in the 46th line, "∓Ci/ml" should read as "μCi/ml"

3. On page 61222, in the second column, in the 20th line; in the second column, in the 22nd line; in the second column, in the 38th line; and in the third column, in the fifteenth line, "mCi/ml" should read "μCi/ml".

[FR Doc. C1–2010–24809 Filed 10–12–10; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2010–0318]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection

request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 26, "Fitness for Duty Programs."

2. *Current OMB approval number:* 3150–0146.

3. *How often the collection is required:* Annually and on occasion.

4. *Who is required or asked to report:* Nuclear power reactor licensees licensed under 10 CFR Part 50 or 52 (except those who have permanently ceased operations and have verified that fuel has been permanently removed from the reactor); all holders of nuclear power plant construction permits and early site permits with a limited work authorization and applicants for nuclear power plant construction permits that have a limited work authorization under the provisions of 10 CFR Part 50; all holders of a combined license for a nuclear power plant issued under 10 CFR Part 52 and applicants for a combined license that have a limited work authorization; all licensee who are authorized to possess, use, or transport formula quantities of strategic special nuclear material (SSNM) under the provisions of 10 CFR Part 70; all holders of a certificate of compliance of an approved compliance plan issued under 10 CFR Part 76, if the holder engages in activities involving formula quantities of SSNM; and all contractor/vendors (C/V) who implement fitness-for-duty (FFD) programs or program elements to the extent that the licensees and other entities listed in this paragraph rely on those C/V FFD programs or program elements to comply with 10 CFR Part 26.

5. *The number of annual respondents:* 89,510 (27 reactor programs + 2 contractor/vendors + 2 fuel cycle facilities plus 1 Subpart K construction FFD program respondent plus 10 HHS-certified laboratories plus 89,468 third-party respondents)

6. *The number of hours needed annually to complete the requirement or request:* 666,824 (6,615 reporting plus 358,352 recordkeeping plus 301,857 third party disclosure)

7. *Abstract:* NRC regulations in 10 CFR Part 26 prescribe requirements to establish, implement, and maintain fitness-for-duty programs at affected licensees and other entities. The objectives of these requirements are to provide reasonable assurance that persons subject to the rule are trustworthy, reliable, and not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way could adversely affect their ability to safely and competently perform their duties. These requirements also provide reasonable assurance that the effects of fatigue and degraded alertness on individual's abilities to safely and competently perform their duties are managed commensurate with maintaining public health and safety. The information collections required by Part 26 are necessary to properly manage FFD programs and to enable effective and efficient regulatory oversight of affected licensees other entities. These licensees and other entities must perform certain tasks, maintain records, and submit reports to comply with Part 26 drug and alcohol provisions and fatigue management requirements. These records and reports are necessary to enable regulatory inspection and evaluation of a licensee's or entity's compliance with NRC regulations, its FFD performance, and of any significant FFD-related event to help maintain public health and safety, promote the common defense and security, and protect the environment.

Submit, by December 13, 2010, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2010–0318. You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2010–0318. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by e-mail to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 4th day of October 2010.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2010–25758 Filed 10–12–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0321]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–1196, "Qualification for Cement Grouting for Prestressing Tendons in Containment Structures."

FOR FURTHER INFORMATION CONTACT: Mekonen M. Bayssie, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *telephone:* (301) 251–7489 or e-mail *Mekonen.Bayssie@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific

parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), entitled, "Qualification for Cement Grouting for Prestressing Tendons in Containment Structures," is temporarily identified by its task number, DG–1196, which should be mentioned in all related correspondence. DG–1196 is proposed Revision 2 of Regulatory Guide 1.107, dated February 1977.

This guide describes a method that the staff of the U.S. Nuclear Regulatory Commission (NRC) considers acceptable for the use of Portland cement grout as the corrosion inhibitor for prestressing tendons in prestressed concrete containment structures. This guide also provides quality standards for using portland cement grout to protect prestressing steel from corrosion.

The prestressing tendon system of a prestressed concrete containment structure is a principal strength element of the structure. The ability of the containment structure to withstand the events postulated to occur during the life of the structure depends on the functional reliability of the structure's principal strength elements. Thus, any significant deterioration of the prestressing elements caused by corrosion may present a potential risk to public safety. It is important that any system for inhibiting the corrosion of prestressing elements must possess a high degree of reliability in performing its intended function.

II. Further Information

The NRC staff is soliciting comments on DG–1196. Comments may be accompanied by relevant information or supporting data and should mention DG–1196 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2010–0321 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0321 Address questions about NRC dockets to Carol Gallagher (301) 492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Cindy K. Bladey, Chief, Rules, Announcements, and Directives Branch (RDB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RDB at (301) 492–3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at (800) 397–4209, (301) 415–4737, or by e-mail to *pdr.resource@nrc.gov.* The Draft Regulatory Guides is available electronically under ADAMS Accession Number ML081570154.

Comments would be most helpful if received by December 11, 2010. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Requests for technical information about DG–1196 may be directed to the NRC contact, Mekonen M. Bayssie at (301) 251–7489 or e-mail *Mekonen.Bayssie@nrc.gov.*

Electronic copies of DG–1196 are available through the NRC's public Web site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/.* Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML081570154.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 4th day of October, 2010.

For the Nuclear Regulatory Commission.

Harriet Karagiannis,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2010–25783 Filed 10–12–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0002]

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of October 11, 18, 25, November 1, 8, 15, 2010.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of October 11, 2010

Thursday, October 14, 2010

9:25 a.m. Affirmation Session (Public Meeting) (Tentative).

a. Final Rule: 10 CFR Part 72 License and Certificate of Compliance Terms (RIN 3150–AI09) (Tentative).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

9:30 a.m. Briefing on Alternative Risk Metrics for New Light Water Reactors (Public Meeting) (Contact: CJ Fong, 301–415–6249).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of October 18, 2010—Tentative

Monday, October 18, 2010

1:30 p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852.

Wednesday, October 20, 2010

9 a.m. Briefing on Medical Issues (Public Meeting), (Contact: Michael Fuller, 301–415–0520).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of October 25, 2010—Tentative

Tuesday, October 26, 2010

9:30 a.m. Briefing on Security Issues (Closed—Ex. 1).

Week of November 1, 2010—Tentative

Tuesday, November 2, 2010

9:30 a.m. Briefing on Equal Employment Opportunity (EEO) and Small Business Programs (Public Meeting), (Contact: Barbara Williams, 301–415–7388).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Friday, November 5, 2010

9:30 a.m. Meeting with the Advisory Committee on Reactor Safeguards and Briefing on Design Acceptance Criteria (Public Meeting), (Contact: Cayetano Santos, 301–415–7270).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of November 8, 2010—Tentative

There are no meetings scheduled for the week of November 8, 2010.

Week of November 15, 2010—Tentative

There are no meetings scheduled for the week of November 15, 2010.

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Angela Bolduc, Chief, Employee/Labor Relations and Work Life Branch, at 301–492–2230, TDD: 301–415–2100, or by e-mail at *angela.bolduc@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: October 7, 2010.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2010–25862 Filed 10–8–10; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7015; NRC–2009–0187]

Notice of Availability of Safety Evaluation Report; AREVA Enrichment Services LLC, Eagle Rock Enrichment Facility, Bonneville County, ID; NUREG–1951

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of safety evaluation report.

FOR FURTHER INFORMATION CONTACT: Breeda Reilly, Senior Project Manager, Advanced Fuel Cycle, Enrichment, and Uranium Conversion, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, Maryland 20852. *Telephone:* (301) 492–3110; *Fax:* (301) 492–3363; *e-mail: Breeda.Reilly@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is considering the issuance of a license to AREVA Enrichment Services (AES) LLC (the applicant) to authorize construction of a gas centrifuge enrichment facility and possession and use of byproduct material, source material, and special nuclear material. This proposed facility is known as the Eagle Rock Enrichment Facility (EREF) and will be located in Bonneville County, Idaho. The NRC has prepared a Safety Evaluation Report (SER) in support of this license application.

II. Summary

By letter dated December 30, 2008, the applicant submitted to the NRC, an application requesting a license, under Title 10 of the *Code of Federal Regulations* Parts 30, 40, and 70, to possess and use byproduct material, source material, and special nuclear material in a gas centrifuge uranium enrichment facility. The applicant proposes that the facility, known as the EREF, be located in Bonneville County, Idaho, about 32 kilometers (20 miles) west-northwest of the city of Idaho Falls. By letter dated April 23, 2009, AES submitted a revised application to increase the facility's nominal capacity from 3 million separative work units (SWU)/year to 6 million SWUs/year. The applicant subsequently revised its license application by letter dated April 30, 2010.

The NRC staff has prepared the SER in support of this license application. The SER discusses the results of the safety review performed by the staff in the following areas: General information, organization and administration, integrated safety analysis (ISA) and ISA summary, radiation protection, nuclear criticality safety, chemical process safety, fire safety, emergency management, environmental protection, decommissioning, management measures, physical protection, and materials control and accountability.

III. Further Information

The SER is available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS Accession Number for the April 30, 2010, revised license application is ML101610549. The ADAMS Accession Number for the September 28, 2010 SER is ML102710296.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 800–397–4209, 301–415–4737 or via e-mail to *pdr.resource@nrc.gov.*

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The

PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 30th day of September, 2010.

For the U.S. Nuclear Regulatory Commission.

Marissa G. Bailey,

Deputy Director, Special Projects and Technical Support Directorate, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2010–25757 Filed 10–12–10; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Express Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: Postal Service gives notice of filing of a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List pursuant to 39 U.S.C. 3642 and 3632(b)(3).

DATES: October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that on October 4, 2010, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Express Mail Contract 9 to Competitive Product List.* Documents are available at *http://www.prc.gov,* Docket Nos. MC2011–1, CP2011–2.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2010–25605 Filed 10–12–10; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service.™

ACTION: Notice.

SUMMARY: Postal Service gives notice of filing of a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List pursuant to 39 U.S.C. 3642 and 3632(b)(3).

DATES: October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that on October 4, 2010, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 28 to Competitive Product List.* Documents are available at *http://www.prc.gov,* Docket Nos. MC2011–2, CP2010–3.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2010–25607 Filed 10–12–10; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service.™

ACTION: Notice.

SUMMARY: Postal Service gives notice of filing of a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List pursuant to 39 U.S.C. 3642 and 3632(b)(3).

DATES: October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that on October 4, 2010, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 29 to Competitive Product List.* Documents are available at *http://www.prc.gov,* Docket Nos. MC2011–3, CP2010–4.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2010–25610 Filed 10–12–10; 8:45 am]

BILLING CODE 7710–12–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before December 13, 2010.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Gail Hepler, Chief 7(a) Program Branch, Office of Financial Assistance, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gail Hepler, *mail to:* Office of Financial Assistance, 202–205–7530 *gail.hepler@sba.gov* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The information collected through these forms from small business loan applicants as well as participating lenders is used to determine eligibility for an ARC loan that is designed to assist small businesses with making timely payments on existing business data.

Title: "America's Recovery Capital (ARC) Loan Program."

Description of Respondents: Participating Lenders to be eligible for an SBA guaranteed loan.

Form Numbers: 2315, 2316A, B, C.

Annual Responses: 11,600.

Annual Burden: 4,200.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 2010–25628 Filed 10–12–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12347 and #12348]

Arizona Disaster #AZ–00012

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of ARIZONA (FEMA–1940–DR), dated 10/04/2010.

Incident: Severe Storms and Flooding.

Incident Period: 07/20/2010 through 08/07/2010.

DATES: *Effective Date*: 10/04/2010.

Physical Loan Application Deadline Date: 12/03/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 07/05/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/04/2010, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Coconino.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.625
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12347B and for economic injury is 12348B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–25627 Filed 10–12–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12279 and #12280]

Iowa Disaster Number IA–00024

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of IOWA (FEMA–1930–DR), dated 08/14/2010.

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 06/01/2010 through 08/31/2010.

DATES: *Effective Date:* 10/01/2010.

Physical Loan Application Deadline Date: 10/13/2010.

EIDL Loan Application Deadline Date: 05/16/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of IOWA, dated 08/14/2010 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Monroe.

All counties contiguous to the above named primary county have previously been declared.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–25618 Filed 10–12–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board Meeting

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Federal Advisory Committee meetings.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the first quarter meetings of the National Small Business Development Center (SBDC) Advisory Board.

DATES: The meetings for the fourth quarter will be held on the following dates:

Tuesday, October 19, 2010 at 1 p.m. EST.

Tuesday, November 16, 2010 at 1 p.m. EST.

Tuesday, December 21, 2010 at 1 p.m. EST.

ADDRESSES: These meetings will be held via conference call.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meetings of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of these meetings is to discuss the following issues pertaining to the SBDC Advisory Board:

—Follow up on ASBDC Annual Conference.

—White Paper Issues.

—SBA Update.

—Member Roundtable.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public, however, advance notice of attendance is requested. Anyone wishing to be a listening participant must contact Alanna Falcone by fax or e-mail. Her contact information is Alanna Falcone, Program Analyst, 409 Third Street, SW., Washington, DC 20416, Phone 202–619–1612, Fax 202–481–0134, e-mail *alanna.falcone@sba.gov*.

Additionally, if you need accommodations because of a disability or require additional information, please contact Alanna Falcone at the information above.

Dan S. Jones,

Committee Management Officer.

[FR Doc. 2010–25727 Filed 10–12–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 7d–2; SEC File No. 270–464; OMB Control No. 3235–0527.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350–3520), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension and approval of the collection of information discussed below.

In Canada, as in the United States, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts ("Canadian retirement accounts"). These accounts, which operate in a manner similar to individual retirement accounts in the United States, encourage retirement savings by permitting savings on a tax-deferred basis. Individuals who

establish Canadian retirement accounts while living and working in Canada and who later move to the United States ("Canadian-U.S. Participants" or "participants") often continue to hold their retirement assets in their Canadian retirement accounts rather than prematurely withdrawing (or "cashing out") those assets, which would result in immediate taxation in Canada.

Once in the United States, however, these participants historically have been unable to manage their Canadian retirement account investments. Most investment companies ("funds") that are "qualified companies" for Canadian retirement accounts are not registered under the U.S. securities laws. Securities of those unregistered funds, therefore, generally cannot be publicly offered and sold in the United States without violating the registration requirement of the Investment Company Act of 1940 ("Investment Company Act").[1] As a result of this registration requirement, Canadian-U.S. Participants previously were not able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

The Commission issued a rulemaking in 2000 that enabled Canadian-U.S. Participants to manage the assets in their Canadian retirement accounts by providing relief from the U.S. registration requirements for offers of securities of foreign issuers to Canadian-U.S. Participants and sales to Canadian retirement accounts.[2] Rule 7d–2 under the Investment Company Act[3] permits foreign funds to offer securities to Canadian-U.S. Participants and sell securities to Canadian retirement accounts without registering as investment companies under the Investment Company Act.

Rule 7d–2 contains a "collection of information" requirement within the meaning of the Paperwork Reduction Act of 1995.[4] Rule 7d–2 requires written offering materials for securities offered or sold in reliance on that rule to disclose prominently that those securities and the fund issuing those securities are not registered with the Commission, and that those securities and the fund issuing those securities are exempt from registration under U.S. securities laws. Rule 7d–2 does not require any documents to be filed with the Commission.

Rule 7d–2 requires written offering documents for securities offered or sold in reliance on the rule to disclose prominently that the securities are not registered with the Commission and may not be offered or sold in the United States unless registered or exempt from registration under the U.S. securities laws, and also to disclose prominently that the fund that issued the securities is not registered with the Commission. The burden under the rule associated with adding this disclosure to written offering documents is minimal and is non-recurring. The foreign issuer, underwriter, or broker-dealer can redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement.

The staff estimates that there are 2075 publicly offered Canadian funds that potentially would rely on the rule to offer securities to participants and sell securities to their Canadian retirement accounts without registering under the Investment Company Act.[5] Most of these funds have already relied upon the rule and have made the one-time change to their offering documents required to rely on the rule. The staff estimates that 104 (5 percent) additional Canadian funds may newly rely on the rule each year to offer securities to Canadian-U.S. Participants and sell securities to their Canadian retirement accounts, thus incurring the paperwork burden required under the rule. The staff estimates that each of those funds, on average, distributes 3 different written offering documents concerning those securities, for a total of 312 offering documents. The staff therefore estimates that 104 respondents would make 312 responses by adding the new disclosure statement to approximately 312 written offering documents. The staff therefore estimates that the annual burden associated with the rule 7d–2 disclosure requirement would be 52 hours (312 offering documents × 10 minutes per document). The total annual cost of these burden hours is estimated to be $16,432 (52 hours × $316 per hour of attorney time).[6]

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Jeffrey Heslop, Acting, Director/CIO, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 6, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25737 Filed 10–12–10; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

[1] 15 U.S.C. 80a. In addition, the offering and selling of securities that are not registered pursuant to the Securities Act of 1933 ("Securities Act") is generally prohibited by U.S. securities laws. 15 U.S.C. 77.

[2] *See* Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Accounts, Release Nos. 33–7860, 34–42905, IC–24491 (June 7, 2000) [65 FR 37672 (June 15, 2000)]. This rulemaking also included new rule 237 under the Securities Act, permitting securities of foreign issuers to be offered to Canadian-U.S. Participants and sold to Canadian retirement accounts without being registered under the Securities Act. 17 CFR 230.237.

[3] 17 CFR 270.7d–2.

[4] 44 U.S.C. 3501–3502.

[5] Investment Company Institute, 2010 Investment Company Fact Book (2010) at 183, tbl. 60.

[6] The Commission's estimate concerning the wage rate for attorney time is based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association ("SIFMA"). The $316 per hour figure for an attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2009,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

Extension:

Rule 425; OMB Control No. 3235–0521; SEC File No. 270–462.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Rule 425 (17 CFR 230.425) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) requires the filing of certain prospectuses and communications under Rule 135 (17 CFR 230.135) and Rule 165 (17 CFR 230.165) in connection with business combination transactions. The purpose of the rule is to permit more oral and written communications with shareholders about tender offers, mergers and other business combination transactions on a more timely basis, so long as the written communications are filed on the date of first use. The information provided under Rule 425 is made available to the public upon request. Also, the information provided under Rule 425 is mandatory. Approximately 1,680 issuers file communications under Rule 425 at an estimated 0.25 hours per response for a total of 420 annual burden hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Jeffrey Heslop, Acting Director/CIO, Office of Information Technology, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312; or send e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25738 Filed 10–12–10; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63038; File No. SR–FICC–2010–04]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to Provide Clarity With Respect to the Close Out Netting of the Government Securities Division in the Event of the Fixed Income Clearing Corporation's Default or Insolvency

October 5, 2010.

I. Introduction

On August 12, 2010, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR–FICC–2010–04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule change was published for comment in the **Federal Register** on August 31, 2010.[2] No comment letters were received on the proposal. This order approves the proposal.

II. Description

FICC is proposing to add a provision to the rules of the Government Securities Division ("GSD") to make explicit the close out netting that would be applied to obligations between FICC and its members in the event that FICC becomes insolvent or defaults in its obligations to its members.[3]

FICC has been asked by some of its dealer members to add a provision to the rules of GSD to make explicit the close out netting of obligations between FICC and its members in the event that FICC becomes insolvent or defaults in its obligations to its members. Such members have stated that such a provision would provide clarity in their application of balance sheet netting to their transactions at FICC under U.S. GAAP in accordance with the criteria specified in the Financial Accounting Standards Board's Interpretation No. 39, *Offsetting of Amounts Related to Certain Contracts* (FIN 39). The members have stated further that a close out provision would allow them to comply with Basel Accord Standards relating to netting. Specifically, firms are able to calculate their capital requirements on the basis of their net credit exposure where they have legally enforceable netting arrangements with their counterparties, which includes a close out netting provision in the event of the default of a counterparty (in this case, the division of FICC acting as a CCP).

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act[4] and the rules and regulations thereunder applicable to FICC.[5] In particular, the Commission believes that by adding a close out provision to its rules, FICC is providing its members with clarity with respect to close out netting that would be applied to obligations of FICC and its members in the event of an FICC insolvency or default and in the calculation of their capital requirements with respect to their net credit exposure where members have legally enforceable netting arrangements with their counterparties. The proposal is therefore consistent with the requirements of Section 17A(b)(3)(F),[6] which requires, among other things, that the rules of a clearing agency are designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[7] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–FICC–2010–04) be, and hereby is, approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25620 Filed 10–12–10; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 62767 (August 26, 2010), 75 FR 53368.

[3] The specific language of the proposed provision is available at *http://www.dtcc.com/downloads/legal/rule_filings/2010/ficc/2010–04.pdf.*

[4] 15 U.S.C. 78q–1.

[5] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63045; File No. SR–ISE–2010–100]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Market Maker Incentive Plan for Foreign Currency Options

October 5, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 4, 2010, International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to extend an incentive plan for market makers in four foreign currency options ("FX Options"). The text of the proposed rule change is available on ISE's Web site at *http://www.ise.com*, on the Commission's Web site at *http://www.sec.gov*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to extend an incentive plan for market makers in options on the New Zealand dollar ("NZD"), the Mexican peso ("PZO"), the Swedish krona ("SKA") and the Brazilian real ("BRB").[3] On August 3, 2009, the Exchange adopted an incentive plan applicable to market makers in NZD, PZO and SKA,[4] and on January 19, 2010, added BRB to the incentive plan.[5] The Exchange subsequently extended the date by which market makers may join the incentive plan.[6] The Exchange proposes to again extend the date by which market makers may join the incentive plan.

In order to promote trading in these FX Options, the Exchange has an incentive plan pursuant to which the Exchange waives the transaction fees for the Early Adopter [7] FXPMM [8] and all Early Adopter FXCMMs [9] that make a market in NZD, PZO SKA and BRB for as long as the incentive plan is in effect. Further, pursuant to a revenue sharing agreement entered into between an Early Adopter Market Maker and ISE, the Exchange pays the Early Adopter FXPMM forty percent (40%) of the transaction fees collected on any customer trade in NZD, PZO SKA and BRB and pays up to ten (10) Early Adopter FXCMMs that participate in the incentive plan twenty percent (20%) of the transaction fees collected for trades between a customer and that FXCMM. Market makers that do not participate in the incentive plan are charged regular transaction fees for trades in these products. In order to participate in the incentive plan, market makers are required to enter into the incentive plan no later than September 30, 2010. The Exchange now proposes to extend the date by which market makers may enter into the incentive plan to December 31, 2010.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes the proposed rule change will permit additional market makers to join the incentive plan which in turn will generate additional order flow to the Exchange by creating incentives to trade these FX Options as well as defray operational costs for Early Adopter Market Makers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act [12] and Rule 19b–4(f)(2) [13] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission previously approved the trading of options on NZD, PZO, SKA and BRB. *See* Exchange Act Release No. 34–55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR–ISE–2006–59).

[4] *See* Exchange Act Release No. 34–60536 (August 19, 2009), 74 FR 43204 (August 26, 2009) (SR–ISE–2009–59).

[5] *See* Exchange Act Release No. 34–61459 (February 1, 2010), 75 FR 6248 (February 8, 2010) (SR–ISE–2010–07).

[6] *See* Exchange Act Release Nos. 34–60810 (October 9, 2009), 74 FR 53527 (October 19, 2009) (SR–ISE–2009–80), 34–61334 (January 12, 2010), 75 FR 2913 (January 19, 2010) (SR–ISE–2009–115), 34–61851 (April 6, 2010), 75 FR 18565 (April 12, 2010) (SR–ISE–2010–27) and 34–62503 (July 15, 2010), 75 FR 42812 (July 22, 2010) (SR–ISE–2010–71).

[7] Participants in the incentive plan are known on the Exchange's Schedule of Fees as Early Adopter Market Makers.

[8] A FXPMM is a primary market maker selected by the Exchange that trades and quotes in FX Options only. *See* ISE Rule 2213.

[9] A FXCMM is a competitive market maker selected by the Exchange that trades and quotes in FX Options only. *See* ISE Rule 2213.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3).

[13] 17 CFR 240.19b–4(f)(2).

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2010–100 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2010–100. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–ISE–2010–100 and should be submitted on or before November 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25624 Filed 10–12–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63046; File No. SR–FINRA–2010–050]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Online Filing of Arbitration Claims

October 5, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 27, 2010, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared substantially by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Rules 12302 and 13302 of the Customer and Industry Codes of Arbitration Procedure, respectively ("Codes") to update the rules relating to online filing of arbitration claims.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

To initiate an arbitration claim at FINRA, a claimant files a signed and dated Submission Agreement, a Statement of Claim that specifies the relevant facts and remedies requested, and any additional documents supporting the Statement of Claim ("initial documents"). The claimant may file in hard copy, submitting enough copies of each of the initial documents for the Director, each arbitrator, and each other party. As an alternative, FINRA Rules 12302 and 13302 provide that a claimant may use the Online Arbitration Claim Filing system ("System") to complete *part* of the claim filing process through the Internet. The rules state that the claimant completes a Claim Information Form online, and submits a Statement of Claim (along with supporting documents) electronically through the System. Once the Claim Information Form is complete, the System generates a FINRA Dispute Resolution Tracking Form ("Tracking Form") for the claimant to reproduce. The claimant then files, in hard copy, the Tracking Form and any materials not submitted electronically. When a claimant files electronically, FINRA makes copies of the documents submitted through the System for the arbitrators and the other parties in the case.

Recently, FINRA implemented programming enhancements that allow claimants to file *all* of the initial documents electronically if they file through the System. FINRA is proposing to make technical, non-substantive amendments to Rules 12302 and 13302 to update the rule language to reflect that claimants may file all of the initial documents electronically.

If the SEC approves the proposed rule change, FINRA would continue to permit claimants to file their claims in hard copy. The proposed rule change specifies that if a claimant does not elect to file electronically, the claimant would be required to file enough copies of the initial documents for the Director, each arbitrator and each other party.

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

The System's User Guide explains, in detail, the methods for filing a claim.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[4] which requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will assist in the efficient administration of arbitrations by updating the relevant rule language to reflect that claimants may file all of the initial documents electronically through the System. FINRA believes these technical, non-substantive amendments will enhance the Codes by making them easier to understand and apply.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[5] and Rule 19b–4(f)(6) thereunder.[6]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2010–050 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2010–050. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2010–050 and should be submitted on or before November 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25625 Filed 10–12–10; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78o–3(b)(6).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63052; File No. SR–BX–2010–067]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BX Rule 4751 To Include Order Collar Functionality

October 6, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 1, 2010, NASDAQ OMX BX, Inc. (the "Exchange" or "BX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The exchange proposes to amend BX Rule 4751 to include Order Collar functionality that cancels any portion of any Unpriced orders (also known as market orders) submitted to the Exchange that would execute at a price that is more than $0.25 or 5 percent worse than the national best bid and offer at the time the order initially reaches the Exchange, whichever is greater. The text of the proposed rule change is available at *http://nasdaqomxbx.cchwallstreet.com*, at BX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to protect market participants by reducing the risk that unpriced orders, also known as market orders, will execute at prices that are significantly worse than the national best bid and offer ("NBBO") at the time the Exchange receives the order. BX believes that most market participants expect that their order will be executed at its full size at a price reasonably related to the prevailing market. However, participants may not be aware that there is insufficient liquidity at or near the NBBO to fill the entire order, particularly for more thinly-traded securities. These Unpriced orders can be disruptive both to the BX and to other markets that are impacted by BX's participation in the national market system.

BX is proposing to implement order collar functionality that cancels any portion of any unpriced orders that would execute on BX at a price that is the greater of $0.25 or 5 percent worse than the NBBO at the time BX receives the order. Unpriced orders that would be subject to this calculation and potential cancellation are defined in new BX Rule 4751(f)(10).

The following example illustrates the Order Collar functionality. A market participant submits an Unpriced order to buy 500 shares. The NBBO is $6.00 bid by $6.05 offer, with 100 shares available on each side. Both sides of the NBBO are set by BX and BX has 100 shares available at the $6.05 to sell at the offer price and also has reserve orders to sell 100 shares at $6.32 and 400 shares at $6.40. No other market center is publishing offers to sell the security in between $6.05 and $6.40.

In this example, the Unpriced Order would be executed in the following manner:

- 100 shares would be executed by BX at the $6.05;
- 100 shares executed by BX at $6.32 (more than $0.25 but less than 5 percent worse than the NBBO); and
- 300 shares, representing the remainder of the Unpriced Order, would be cancelled because the remaining liquidity available at $6.40 is more than 5 percent worse than the NBBO.

BX believes that market participants who wish to trade at prices further away from the NBBO than the Unpriced Order thresholds would permit, may still accomplish their strategy by submitting a marketable limit order to BX. In the example above, a market participant with such a strategy could have input a limit order with a price of $7.00, which would have executed up to its full size provided liquidity is available. BX's proposal is similar to a rule change already implemented by NASDAQ, BATS Exchange, Inc. and NYSE Arca, Inc.[4]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act in general,[5] and furthers the objectives of Section 6(b)(5) of the Act in particular,[6] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by avoiding execution of unpriced orders on the Exchange at prices that are significantly worse than the NBBO at the time the order is initially received by the Exchange. The Exchange believes that the NBBO provides reasonable guidance of the current value of a given security and therefore that market participants should have confidence that their unpriced orders will not be executed at a significantly worse price than the NBBO.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[9] However, Rule 19b–4(f)(6)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission notes (i) the proposal is similar to existing thresholds on market orders adopted by The NASDAQ Stock Market LLC, BATS Exchange, Inc., and NYSE Arca, Inc; (ii) it presents no novel issues; and (iii) the functionality is voluntary, and it may provide a benefit to market participants. For these reasons, the Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay, and hereby grants such waiver.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File

[4] *See* NASDAQ Rule 4751(f)(13); BATS Rule 11.9; NYSE Arca Equities Rule 7.31(a).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, BX has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date on which the Exchange filed the proposed rule change.

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] *Id.*

[11] For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Number SR–BX–2010–067 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2010–067. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission,[12] all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2010–067 and should be submitted on or before November 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25742 Filed 10–12–10; 8:45 am]

BILLING CODE 8011–01–P

[12] The text of the proposed rule change is available on Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com*, on the Commission's Web site at *http://www.sec.gov*, at BX, and at the Commission's Public Reference Room.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63039; File No. SR–FINRA–2010–051]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reconcile Certain Amendments Approved Pursuant to SR–FINRA–2009–061 and SR–FINRA–2010–003

October 5, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 1, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to make conforming changes to FINRA Rules 6420, 6610, 6622, 7310 and 7410 to reconcile amendments approved pursuant to two recent proposed rule changes: SR–FINRA–2010–003, which was implemented on June 28, 2010, and SR–FINRA–2009–061, which will be implemented on November 1, 2010.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 16, 2009, FINRA filed proposed rule change SR–FINRA–2009–061 to amend its trade reporting rules to (1) require that members report over-the-counter ("OTC") equity transactions [4] to FINRA within 30 seconds of execution and report certain trade cancellations to FINRA within 30 seconds of cancellation; (2) require that members report secondary market transactions in non-exchange-listed direct participation program ("DPP") securities to FINRA within 30 seconds of execution; and (3) make certain conforming changes to the rules relating to the OTC Reporting Facility ("ORF"). In that filing, FINRA proposed, among other things, to amend Rules 6420, 6610, 6622, 6623, 7310, 7330 and 7410. SR–FINRA–2009–061 was approved by the Commission on March 31, 2010,[5] and will be implemented on November 1, 2010.

On January 15, 2010, FINRA filed proposed rule change SR–FINRA–2010–003, in pertinent part, to (1) amend Rules 6610, 6622, 6623, 7310 and 7330 regarding reporting transactions in restricted equity securities to the ORF; and (2) update the definition of "OTC Equity Security" in Rules 6420 and 7410. SR–FINRA–2010–003 was approved by the Commission on April 23, 2010,[6] and was implemented on June 28, 2010. The underlying text of SR–FINRA–2010–003 did not reflect the amendments that were approved pursuant to SR–FINRA–2009–061,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] Specifically, OTC equity transactions are: (1) Transactions in NMS stocks, as defined in SEC Rule 600(b) of Regulation NMS, effected otherwise than on an exchange, which are reported through the Alternative Display Facility ("ADF") or a Trade Reporting Facility ("TRF"); and (2) transactions in "OTC Equity Securities," as defined in FINRA Rule 6420 (i.e., non-NMS stocks such as OTC Bulletin Board and Pink Sheets securities), which are reported through the OTC Reporting Facility ("ORF").

[5] *See* Securities Exchange Act Release No. 61819 (March 31, 2010), 75 FR 17806 (April 7, 2010) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval; File No. SR–FINRA–2009–061).

[6] *See* Securities Exchange Act Release No. 61979 (April 23, 2010), 75 FR 23316 (May 3, 2010) (Order Approving Proposed Rule Change, as Modified by Amendment Nos. 1 and 2; File No. SR–FINRA–2010–003).

because those changes will not be implemented until November 1, 2010.

Because of the timing of the aforementioned filings, certain of the amendments that were approved pursuant to SR–FINRA–2009–061 must be reconciled with the current rule text, as amended pursuant to SR–FINRA–2010–003. This proposed rule change makes no material changes to the amendments that were approved pursuant to SR–FINRA–2009–061.[7]

In addition, SR–FINRA–2009–061 and SR–FINRA–2010–003 proposed identical amendments to Rule 6623, and both filings proposed to amend Rules 7310(j) and 7330(b). FINRA is proposing to retain the version of these provisions as amended by SR–FINRA–2010–003; therefore, this proposed rule change does not reflect any conforming changes to Rules 6623, 7310(j) or 7330(b).

Finally, FINRA is proposing in this filing an additional amendment that was not proposed in SR–FINRA–2010–003 or SR–FINRA–2009–061. FINRA is proposing a technical change to the title of the Rule 6620 Series to clarify that the series applies to the reporting of transactions in Restricted Equity Securities as well as OTC Equity Securities.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be November 1, 2010, the date on which SR–FINRA–2009–061 will be implemented.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change will provide greater clarity to members and the public regarding FINRA's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2010–051 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2010–051. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–FINRA–2010–051 and should be submitted on or before November 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25740 Filed 10–12–10; 8:45 am]

BILLING CODE 8011–01–P

[7] Specifically, the amendments approved pursuant to SR–FINRA–2009–061 and SR–FINRA–2010–003 overlap with respect to the rule text itself in Rules 6610, 6622(a)(9) (which is renumbered as Rule 6622(a)(7) by SR–FINRA–2009–061), 7310(g) and 7410(l).

In addition, both filings renumbered certain provisions in Rules 6420 and 6622(a). This proposed rule change reflects conforming changes to reconcile the numbering of these provisions. To avoid potential confusion as a result of conflicting numbering, this proposed rule change reflects all of the amendments to Rule 6420 and paragraph (a) of Rule 6622 that were approved pursuant to SR–FINRA–2009–061, irrespective of whether the rule text itself conflicts with the text as amended by SR–FINRA–2010–003. Because these amendments were previously approved by the Commission, FINRA is not re-proposing them in this filing and is including them herein solely for ease of reference.

[8] 15 U.S.C. 78*o*–3(b)(6).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63041; File No. SR–NYSEArca–2010–86]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change Relating to Listing of the Peritus High Yield ETF

October 5, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 23, 2010, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the following under NYSE Arca Equities Rule 8.600 ("Managed Fund Shares"): Peritus High Yield ETF. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the following Managed Fund Shares [3] ("Shares") under NYSE Arca Equities Rule 8.600: Peritus High Yield ETF (the "Fund").[4] The Shares will be offered by AdvisorShares Trust (the "Trust"), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[5]

Peritus High Yield ETF

The investment advisor to the Fund is AdvisorShares Investments, LLC (the "Advisor"). Peritus I Asset Management, LLC is the Fund's sub-advisor ("Peritus" or the "Sub-Advisor"). The Bank of New York Mellon is the administrator, transfer agent and custodian for the Fund.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the Investment Company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio.[6] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Advisor and Sub-Advisor are not affiliated with a broker-dealer.[7] Any additional Fund sub-advisers that are affiliated with a broker-dealer will be required to implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to a portfolio.

According to the Registration Statement, the Fund's investment objective is high current income with a secondary goal of capital appreciation. The Sub-Advisor seeks to achieve the Fund's investment objective by selecting a focused portfolio of high yield debt securities, which include senior and subordinated corporate debt obligations (such as bonds, debentures, notes and commercial paper [8]). The Fund does not have any portfolio maturity limitation and may invest its assets from time to time primarily in instruments with short-term, medium-term or long-term maturities.

In selecting securities for the Fund's portfolio, Peritus performs its own independent investment analysis of each issuer to determine its creditworthiness. Peritus focuses on the

[3] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment advisor consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[4] The Commission has previously approved listing and trading on the Exchange of certain actively managed funds under Rule 8.600 that hold debt securities. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 61365 (January 15, 2010), 75 FR 4124 (January 26, 2010) (SR–NYSEArca–2009–114) (order approving listing and trading of Grail McDonnell Fixed Income ETFs); 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR–NYSEArca–2009–79) (order approving listing of five fixed income funds of the PIMCO ETF Trust).

[5] The Trust is registered under the 1940 Act. On May 11, 2010, the Trust filed with the Commission Post-Effective Amendment No. 6 to Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) relating to the Fund (File Nos. 333–157876 and 811–22110) (the "Registration Statement"). The description of the operation of the Trust and the Fund herein is based on the Registration Statement.

[6] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the investment adviser is subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act.

[7] The Exchange represents that the Advisor and Sub-Advisor, and their respective related personnel, are subject to Investment Advisers Act Rule 204A–1. This Rule specifically requires the adoption of a code of ethics by an investment adviser to include, at a minimum: (i) Standards of business conduct that reflect the firm's/personnel fiduciary obligations; (ii) provisions requiring supervised persons to comply with applicable federal securities laws; (iii) provisions that require all access persons to report, and the firm to review, their personal securities transactions and holdings periodically as specifically set forth in Rule 204A–1; (iv) provisions requiring supervised persons to report any violations of the code of ethics promptly to the chief compliance officer ("CCO") or, provided the CCO also receives reports of all violations, to other persons designated in the code of ethics; and (v) provisions requiring the investment adviser to provide each of the supervised persons with a copy of the code of ethics with an acknowledgement by said supervised persons. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] Commercial paper consists of short-term, promissory notes issued by banks, corporations and other entities to finance short-term credit needs. These securities generally are discounted but sometimes may be interest bearing. As of year end 2009, $1.137 trillion commercial paper was outstanding, and, as of May 31, 2010 $1.0548 trillion commercial paper was outstanding The daily average commercial paper market issuance in 2009 was $99.044 billion, with 66% having a maturity of 1–4 days, 7.1% having a maturity of 5–9 days, 3.8% having a maturity of 10–20 days, 10.4% having a maturity of 21–40 days, 3.6% having a maturity of 41–80 days and 8.6% having a maturity of 81 days or more. For 2010 (as of May 31), the daily average commercial paper market issuance was $92.758 billion, with 67.6% having a maturity of 1–4 days, 7.4% having a maturity of 5–9 days, 4% having a maturity of 10–20 days, 10.8% having a maturity of 21–40 days, 3.3% having a maturity of 41–80 days and 6.9% having a maturity of 81 days or more. (Source: Federal Reserve).

secondary market, predominantly investing in assets at a discount to par ($100), allowing for a potential opportunity to generate capital gains in addition to current yield.

According to the Registration Statement, Peritus places limited value on credit ratings and instead focuses on true cash flow while looking to buy credit at prices that it feels provide a margin of safety. Additional factors are considered when constructing the portfolio including, but not limited to, excess cash on the balance sheet and/or a history of producing real free cash flow, as well as a capital structure that can be sustained on conservative forecasts.

According to the Registration Statement, Peritus reverse engineers the traditional financial analysis process when reviewing each issuer's creditworthiness. Each analysis considers the issuer's Statement of Cash Flows, the Balance Sheet and then the Income Statement, in that order. The investment team looks at a complete appraisal of the business' intrinsic value, rather than just traditional credit analysis. Through fundamental and valuation analysis, the Sub-Advisor determines whether an investment should be made in a certain company, and where in the capital structure (secured, senior, or subordinate) the risk/return is most attractive. The Fund's portfolio will typically consist of 40–60 holdings.[9]

The Fund's portfolio holdings will be disclosed on its Web site (*http://www.advisorshares.com*) daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day.

According to the Registration Statement, the Fund may invest in debt securities and may seek investment in corporate debt securities representative of one or more high yield bond or credit derivative indices, which may change from time to time. Selection will generally be dependent on independent credit analysis or fundamental analysis performed by the Sub-Advisor.[10] The Fund may invest in all grades of corporate securities including below investment grade.[11] The Fund will only invest in liquid securities. The Fund will only purchase performing securities, not distressed debt.[12] To a lesser extent, the Fund also may invest in unrated securities.

The Fund may invest in the securities of other investment companies to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the SEC.

The Fund may make short-term investments in U.S. Government securities and may invest in U.S. Treasury zero-coupon bonds.

To respond to adverse market, economic, political or other conditions, the Fund may invest 100% of its total assets, without limitation, in high-quality short-term debt securities and money market instruments. The Fund may be invested in these instruments for extended periods, depending on the Sub-Advisor's assessment of market conditions. These short-term debt securities and money market instruments include shares of other mutual funds, commercial paper, certificates of deposit, bankers' acceptances, and U.S. Government securities.

The Fund is subject to the following investment limitations:

Diversification. The Fund may not (i) with respect to 75% of its total assets, purchase securities of any issuer (except securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities or shares of investment companies) if, as a result, more than 5% of its total assets would be invested in the securities of such issuer; or (ii) acquire more than 10% of the outstanding voting securities of any one issuer. For purposes of this policy, the issuer of a Depository Receipt will be deemed to be the issuer of the respective underlying security.[13]

Concentration. The Fund may not invest 25% or more of its total assets in the securities of one or more issuers conducting their principal business activities in the same industry or group of industries. The Fund will not invest 25% or more of its total assets in any investment company that so concentrates. This limitation does not apply to investments in securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities, or shares of investment companies. For purposes of this policy, the issuer of a Depository Receipt will be deemed to be the issuer of the respective underlying security.

The Fund, under normal circumstances, will invest at least 80% of its net assets, plus any borrowings for investment purposes, in high yield debt securities. The Fund intends to maintain the level of diversification necessary to qualify as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [14] under the Exchange Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the net asset value ("NAV") and the Disclosed Portfolio will be made available to all market participants at the same time.

The Fund will not invest in non-US issues.

Creations and Redemptions of Shares

The Trust issues and sells Shares of the Fund only in Creation Units of 50,000 Shares on a continuous basis through the Distributor, at their NAV next determined after receipt, on any Business Day (as defined in the Registration Statement). The consideration for purchase of a Creation Unit of the Fund generally consists of an in-kind deposit of a designated portfolio of securities (the "Deposit Securities") per each Creation Unit constituting securities included in the Fund's portfolio and an amount of cash (the "Cash Component") computed as described in the Registration Statement. Together, the Deposit Securities and the Cash Component constitute the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. Creations and redemption of Shares may be effected only by Authorized Participants, as defined in the Registration Statement.[15]

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Administrator and only on a Business Day. The Trust will not redeem shares in amounts less than Creation Units.

Unless cash redemptions are available or specified for the Fund, the

[9] The Fund represents that the portfolio will include a minimum of 13 non-affiliated issuers.

[10] *See* e-mail from Tim Malinowski, Senior Director, Exchange, to David Liu, Senior Special Counsel, Edward Cho, Special Counsel, and Andrew Madar, Special Counsel, Commission, dated October 4, 2010.

[11] The Fund has represented that it will invest only in U.S.-registered bonds that are listed or traded in the United States. However, certain of the Fund's debt holdings may be issued by corporations domiciled outside the United States.

[12] Distressed debt is debt that is currently in default and is not expected to pay the current coupon.

[13] This diversification standard is contained in Section 5(b)(1) of the 1940 Act.

[14] 17 CFR 240.10A–3.

[15] Terms relating to the Trust and the Shares referred to, but not defined, herein are defined in the Registration Statement.

redemption proceeds for a Creation Unit generally consist of Fund Securities (securities included in the Fund's portfolio)—as announced by the Administrator on the Business Day of the request for redemption received in proper form—plus cash in an amount equal to the difference between the NAV of the shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the "Cash Redemption Amount"), less a redemption transaction fee. In the event that the Fund Securities have a value greater than the NAV of the shares, a compensating cash payment equal to the differential is required to be made by or through an Authorized Participant by the redeeming shareholder.

Availability of Information

The Fund's Web site (*http://www.advisorshares.com*), which will be publicly available prior to the public offering of Shares, will include a form of the Prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),[16] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.[17]

On a daily basis, the Advisor will disclose for each portfolio security or other financial instrument of the Fund the following information: Ticker symbol (if applicable), name of security or financial instrument, number of shares or dollar value of financial instruments held in the portfolio, and percentage weighting of the security or financial instrument in the portfolio. The Web site information will be publicly available at no charge. In addition, price information for the debt securities held by the Fund will be available through major market data vendors.

In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for Fund shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange ("NYSE") via the National Securities Clearing Corporation. The basket represents one Creation Unit of the Fund. The NAV of the Fund will normally be determined as of the close of the regular trading session on the NYSE (ordinarily 4:00 p.m. Eastern Time) on each business day.

Investors can also obtain the Trust's Statement of Additional Information ("SAI"), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *http://www.sec.gov.* Information regarding market price and trading volume of the Shares is and will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association ("CTA") high-speed line. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[18] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities comprising the Disclosed Portfolio and/or the financial instruments of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. Eastern Time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (which include Managed Fund Shares) to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The Exchange's current trading surveillance focuses on detecting

[16] The Bid/Ask Price of the Fund is determined using the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[17] Under accounting procedures followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[18] *See* NYSE Arca Equities Rule 7.12, Commentary .04.

securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange may obtain information via the Intermarket Surveillance Group ("ISG") from other exchanges that are members of ISG or with which the Exchange has entered into a surveillance sharing agreement.[19]

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit ("ETP") Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Exchange Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern Time each trading day.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)[20] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2010–86 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2010–86. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSEArca–2010–86 and should be submitted on or before November 3, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

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BILLING CODE 8011–01–P

[19] For a list of the current members of ISG, *see.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[20] 15 U.S.C. 78f(b)(5).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63042; File No. SR–NSX–2010–13]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NSX Fee and Rebate Schedule

October 5, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2010, National Stock Exchange, Inc. filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The National Stock Exchange, Inc. ("NSX®" or the "Exchange") is proposing a rule change, operative at commencement of trading on October 1, 2010, which proposes to amend the NSX Fee and Rebate Schedule (the "Fee Schedule") respect to rebates payable in the Order Delivery mode of order interaction.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change Purpose

With this rule change, the Exchange is proposing to modify the Fee Schedule to lower the volume threshold necessary to obtain the highest rebate with respect to displayed orders in securities priced one dollar and above that add liquidity in the Order Delivery mode of order interaction ("Order Delivery").[3]

For displayed orders in securities priced one dollar and above that add liquidity in Order Delivery, the proposed rule change lowers the volume threshold necessary to achieve the highest rebate tier. Prior to the effective date of the proposed rule change, the Fee Schedule provides a rebate of $0.0008 per share if an ETP Holder's liquidity adding average daily volume (as fully defined in Endnote 3 of the Fee Schedule, "Liquidity Adding ADV") is at least one million shares and less than five million shares ("Tier 1"); a rebate of $0.0024 per share plus 35% of attributable market data revenue if Liquidity Adding ADV is at least five million shares and less than 30 million shares ("Tier 2"); and a rebate of $0.0024 per share plus 50% of attributable market data revenue if Liquidity Adding ADV is at least 30 million shares ("Tier 3").

The proposed rule change lowers, from 30 to 15 million, the Tier 3 volume threshold necessary to obtain the highest rebates. Accordingly, after the effective date, an ETP Holder achieving a Liquidity Adding ADV of at least 15 million shares will receive a rebate of $0.0024 per share plus 50% of attributable market data revenue regarding its displayed orders priced one dollar or higher that add liquidity in Order Delivery.

The proposed rule change does not modify other rebates or fees that are contained in the Fee Schedule.

Rationale

The Exchange has determined that these changes are necessary to create further incentive for ETP Holders to submit increased order volumes and, ultimately, to increase the revenues of the Exchange for the purpose of continuing to adequately fund its regulatory and general business functions. The Exchange has further determined that the proposed fee adjustments are necessary for competitive reasons. The Exchange believes that these rebate changes will not impair the Exchange's ability to fulfill its regulatory responsibilities.

The proposed modifications are reasonable and equitably allocated to those ETP Holders that submit orders in Order Delivery, and are not discriminatory because qualified ETP Holders are free to elect whether or not to send such orders. Based upon the information above, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest.

Operative Date and Notice

The Exchange intends to make the proposed modifications, which are effective on filing of this proposed rule, operative for trading on October 1, 2010. Pursuant to Exchange Rule 16.1(c), the Exchange will "provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange" through the issuance of a Regulatory Circular of the changes to the Fee Schedule and will post a copy of the rule filing on the Exchange's website (*http://www.nsx.com*).

Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[4] in general, and Section 6(b)(4) of the Act,[5] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using the facilities of the Exchange. Moreover, the proposed rule change is not discriminatory in that all qualified ETP Holders are eligible to submit (or not submit) trades and quotes at any price in AutoEx and Order Delivery in all tapes, as either displayed or undisplayed and as liquidity adding or liquidity taking, and may do so at their discretion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange's two modes of order interaction are described in NSX Rule 11.13(b).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act [6] and subparagraph (f)(2) of Rule 19b–4 [7] thereunder, because, as provided in (f)(2), it changes "a due, fee or other charge applicable only to a member" (known on the Exchange as an ETP Holder). At any time within sixty (60) days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NSX–2010–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File No. SR–NSX–2010–13. This file number should be included in the subject line if e-mail is used. To help the Commission process and review comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSX–2010–13 and should be submitted on or before November 3, 2010.

For the Commission by the Division of Trading and Markets, pursuant to the delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25622 Filed 10–12–10; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63044; File No. SR–FINRA–2010–042]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Relating to FINRA Rule 4160 (Verification of Assets)

October 5, 2010.

I. Introduction

On August 4, 2010, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change that provides that a member, when notified by FINRA, may not continue to custody or retain record ownership of assets, at a non-member financial institution, which, upon FINRA staff's request, fails promptly to provide FINRA with written verification of assets maintained by the member at such financial institutions. The proposed rule change was published for comment in the **Federal Register** on August 11, 2010.[3] The Commission received one comment on the proposed rule change.[4] On October 1, 2010, FINRA responded to the comments and filed Amendment No. 1 to the proposed rule change.[5] The Commission is publishing this notice and order to solicit comments on Amendment No. 1 and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of Proposed Rule Change, as Modified by Amendment No. 1

FINRA has proposed to adopt FINRA Rule 4160 (Verification of Assets). The proposed rule provides that a member, when notified by FINRA, may not continue to custody or retain record ownership of assets, at a non-member financial institution, which, upon FINRA staff's request, fails promptly to provide FINRA with written verification of assets maintained by the member at such financial institution. The proposed rule change also would add a supplementary material section to the new rule.

FINRA proposes new paragraph (b) in its Amendment No. 1. Paragraph (b)(1) expressly excludes from the rule proprietary assets of members that are treated as non-allowable assets pursuant to Rule 15c3–1 under the Act. Paragraph (b)(2) provides that the rule would not apply in instances where FINRA determines that there is no other available independent custody or record ownership of the assets. Amendment No. 1 would also designate the original rule text as paragraph (a). Finally, the Supplementary Material remains unchanged by Amendment No. 1.

The text of the proposed rule change, as modified by Amendment No. 1, is below. Proposed new language is underlined.

* * * * *

4000. FINANCIAL AND OPERATIONAL RULES

4100. FINANCIAL CONDITION

* * * * *

4160. Verification of Assets

(a) A member, when notified by FINRA, may not continue to custody or retain record ownership of assets, whether such assets are proprietary or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62655 (August 5, 2010), 75 FR 48731 (August 11, 2010).

[4] *See* Letter from Howard Spindel, Senior Managing Director, and Cassondra E. Joseph, Managing Director, Integrated Management Solutions USA LLC, dated August 30, 2010 ("IMS letter").

[5] *See* Amendment No. 1 dated October 1, 2010 ("Amendment No. 1"). The text of Amendment No. 1 is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, and on the Commission's Web site, *http://www.sec.gov/rules/sro.shtml.*

customer assets, at a financial institution that is not a member of FINRA, which, upon FINRA staff's request, fails promptly to provide FINRA with written verification of assets maintained by the member at such financial institution.

(b) The Rule shall not apply:

(1) to proprietary assets of members that are treated as non-allowable assets under SEA Rule 15c3–1; or

(2) in instances where FINRA determines that there is no independent custody or record ownership of the assets.

• • • Supplementary Material:

.01 Asset Transfers. Any member required to transfer its proprietary and/or customer assets pursuant to this Rule shall effect such transfer within a reasonable period of time.

.02 Member Obligations Under SEA Rule 15c3–3. Nothing in this Rule shall be construed as altering in any manner a member's obligations under SEA Rule 15c3–3.

* * * * *

III. Summary of Comment Letters and FINRA's Response

The Commission received one comment to the proposed rule change.[6] The commenter opposed the proposal and asserted that the harm outweighed any benefit of the proposed rule. Specifically, the commenter indicated that certain assets are hard to verify and that the proposed rule failed to differentiate among different types of assets.[7] The commenter suggested, among other things, that FINRA not apply the rule to proprietary assets that are not allowable for net capital purposes. The commenter further raised concerns that the proposed rule would create an unwarranted burden on members, because it fails to address instances where a particular asset cannot be relocated from its country of origin or readily moved to another financial institution.[8] Additionally, the commenter asserted that the rule "indirectly extends the extraterritorial application of the U.S. securities laws," and that compliance with the rule may violate foreign law. Finally, the commenter believed that instead of adopting the proposed rule, FINRA should look at other asset verification options and suggested the alternatives of conducting a study regarding the necessity of the proposed rule or establishing a separate bureau that would verify customers' statements against the books and records of their broker-dealers.[9]

FINRA filed Amendment No. 1 and responded to the comments. Amendment No. 1 specifically addresses the commenter's suggestion that the rule should not apply to proprietary assets of members that are not allowable for net capital purposes. Accordingly, FINRA is proposing new paragraph (b)(1) of the rule, which would expressly exclude from the rule proprietary assets of members that are treated as non-allowable assets pursuant to Rule 15c3–1 of the Act. Moreover, in response to the commenter's concerns regarding the application of the proposed rule to assets that cannot be relocated to another financial institution, such as many limited partnership or hedge fund investments, FINRA is proposing new paragraph (b)(2) of the rule, which provides that the rule would not apply in instances where FINRA determines that there is no independent custody or record ownership of the assets.

IV. Discussion and Commission Findings

After carefully considering the proposal, as modified by Amendment No. 1, the comments, and FINRA's response, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities association.[10] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is consistent with FINRA's statutory obligations under the Act to protect investors and the public interest because it would enhance FINRA's ability to verify assets at a financial institution which is not a member of FINRA.

The Commission believes that FINRA adequately addressed the concerns raised by the commenter. The rule language in Amendment No. 1 specifically excludes proprietary assets that are not allowable for net capital purposes. It also adequately addresses the commenter's concerns regarding the application of the proposed rule to assets that cannot be relocated to another financial institution, by adding paragraph (b)(2) of the rule clarifies that the rule would not apply in instances where FINRA determines that there is no other independent custody or record ownership of the assets. The Commission believes the proposed rule, as modified by Amendment No. 1, further strengthens FINRA's ability to effectively detect fraud and protect investors.

V. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act[12] for approving the proposed rule change, as modified by Amendment No. 1 thereto, prior to the 30th day after publication of Amendment No. 1 in the **Federal Register.** The changes proposed in Amendment No. 1 respond to specific concerns raised by the commenter and do not raise novel regulatory concerns. In particular, Amendment No. 1 further clarifies the scope of the asset verification rule, which serves to protect the capital structure of members and to safeguard the custody of customer assets.

Accordingly, the Commission finds that good cause exists to approve the proposal, as modified by Amendment No. 1, on an accelerated basis.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2010–042 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. All submissions should refer to File Number SR–FINRA–2010–042. This file number should be included on the subject line if e-mail is used. To help the Commission process

[6] IMS letter.

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(2).

and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions.

You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2010–042 and should be submitted on or before November 3, 2010.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–FINRA–2010–042), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–25623 Filed 10–12–10; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78(b)(2).

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 7205]

30-Day Notice of Proposed Information Collection: Form DS–5504, Application for a U.S. Passport: Name Change, Data Correction, and Limited Passport Book Replacement, OMB Control Number 1405–0160

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Application for a U.S. Passport: Name Change, Data Correction, and Limited Passport Book Replacement.
- *OMB Control Number:* 1405–0160.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services CA/PPT.
- *Form Number:* DS–5504.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 181,000 respondents per year.
- *Estimated Number of Responses:* 181,000 responses per year.
- *Average Hours per Response:* 30 minutes.
- *Total Estimated Burden: 90,*500 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from October 13, 2010.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from the Passport Forms Management Officer who may be reached on 202–663–2457 or at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The information collected on the DS–5504 is used to facilitate the re-issuance of passports to U.S. citizens and nationals when (a) the passport holder's name has changed within the first year of the issuance of the passport (b) the passport holder needs correction of descriptive information on the data page of the passport (c) the passport holder wishes to obtain a fully valid passport after obtaining a full-fee passport with a limited validity of two years or less. The primary purpose of soliciting the information is to establish citizenship, identity, and entitlement of the applicant to the U.S. passport or related service, and to properly administer and enforce the laws pertaining to the issuance thereof.

Methodology: Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the Application for a U.S. Passport: Name Change, Data Correction, And Limited Passport Book Replacement. Passport applicants can either download the DS–5504 from the internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed, signed, and submitted along with the applicant's valid U.S. passport and supporting documents for corrective action.

Dated: October 1, 2010.

Barry J. Conway,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2010–25750 Filed 10–12–10; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 7206]

30-Day Notice of Proposed Information Collection: Form DS–3053, Statement of Consent or Special Circumstances: Issuance of a Passport to a Minor Under Age 16, OMB Control Number 1405–0129

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Statement of Consent or Special Circumstances: Issuance of a Passport to a Minor Under Age 16.

- *OMB Control Number:* 1405–0129.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services CA/PPT.
- *Form Number:* DS–3053.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 1,025,000 respondents per year.
- *Estimated Number of Responses:* 1,025,000 responses per year.
- *Average Hours per Response:* 1 Hour.
- *Total Estimated Burden:* 1,025,000 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATE(S): Submit comments to the Office of Management and Budget (OMB) for up to 30 days from October 13, 2010.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail:* *oira_submission@omb.eop.gov*. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from the Passport Forms Management Officer who may be reached on 202–663–2457 or at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The information collected on the DS–3053 is used to facilitate the issuance of passports to U.S. citizens and nationals under the age of 16. The primary purpose of soliciting the information is to ensure that both parents and/or all guardians consent to the issuance of a passport to a minor under age 16, except where one parent has sole custody or there are exigent or special family circumstances.

Methodology: Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the Statement of Consent or Special Circumstances: Issuance of a Passport to a Minor under Age 16. Passport applicants can either download the DS–3053 from the internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed, signed, and submitted along with the applicant's DS–11, Application for a U.S. Passport.

Dated: October 1, 2010.

Barry J. Conway,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2010–25749 Filed 10–12–10; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 7202]

30-Day Notice of Proposed Information Collection: Form DS–11, Application for a U.S. Passport, OMB Control Number 1405–0004

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Application for a U.S. Passport.
- *OMB Control Number:* 1405–0004.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services—CA/PPT.
- *Form Number:* DS–11.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 12.5 million respondents per year.
- *Estimated Number of Responses:* 12.5 million responses per year.
- *Average Hours per Response:* 85 minutes.
- *Total Estimated Burden:* 17,708,300 per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from November 12, 2010.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail:* *oira_submission@omb.eop.gov*. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from the Passport Forms Management Officer who may be reached on 202–663–2457 or at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The information collected on the DS–11 is used to facilitate the issuance of passports to U.S. citizens and nationals. The primary purpose of soliciting the information is to establish citizenship, identity, and entitlement to the issuance of the U.S. passport or related service, and to properly administer and enforce the laws pertaining to the issuance thereof.

Methodology: Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the Application for a U.S. Passport. Passport applicants can either download the DS–11 from the internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed, executed at an acceptance facility or passport agency, and submitted with evidence of citizenship and identity.

Dated: October 1, 2010.

Barry J. Conway,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2010–25735 Filed 10–12–10; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 7203]

30-Day Notice of Proposed Information Collection: Form DS–82, U.S. Passport Renewal Application for Eligible Individuals, OMB Control Number 1405–0020

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* U.S. Passport Renewal Application for Eligible Individuals.
- *OMB Control Number:* 1405–0020.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services CA/PPT.
- *Form Number:* DS–82.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 4.2 million respondents per year.
- *Estimated Number of Responses:* 4.2 million responses per year.
- *Average Hours per Response:* 40 minutes.
- *Total Estimated Burden:* 2,800,000 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from October 13, 2010.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail:* *oira_submission@omb.eop.gov*. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from the Passport Forms Management Officer who may be reached on 202–663–2457 or at *PPTFormsOfficer@state.gov*.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The information collected on the DS–82 is used to facilitate the issuance of passports to U.S. citizens and nationals. The primary purpose of soliciting the information is to establish citizenship, identity, and entitlement to the issuance of the U.S. passport or related service, and to properly administer and enforce the laws pertaining to the issuance thereof.

Methodology: Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the U.S. Passport Renewal Application for Eligible Individuals. Passport applicants can either download the DS–82 from the internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed, signed, and submitted along with the applicant's previous U.S. passport.

Dated: October 1, 2010.

Barry J. Conway,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2010–25733 Filed 10–12–10; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 7204]

30-Day Notice of Proposed Information Collection: Form DS–4085, Application for Additional Visa Pages or Miscellaneous Passport Services, OMB Control Number 1405–0159

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Application for Additional Visa Pages Or Miscellaneous Passport Services.
- *OMB Control Number:* 1405–0159.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services CA/PPT.
- *Form Number:* DS–4085.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 146,000 respondents per year.
- *Estimated Number of Responses:* 146,000 responses per year.
- *Average Hours per Response:* 20 minutes.
- *Total Estimated Burden:* 48,700 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from November 12, 2010.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail:* *oira_submission@omb.eop.gov*. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. *Attention:* Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from the Passport Forms Management Officer who may be reached on 202–663–2457 or at *PPTFormsOfficer@state.gov*.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection:

The information collected on the DS–4085 is used to facilitate the issuance of additional visa pages to valid U.S. passports. The primary purpose of soliciting the information is to establish citizenship, identity, and entitlement of the applicant to the U.S. passport or related service, and to properly administer and enforce the laws pertaining to the issuance thereof.

Methodology:

Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the Application for Additional Visa Pages or Miscellaneous Passport Services. Passport applicants can either download the DS–4085 from the internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed, signed, and submitted along with the applicant's valid U.S. passport.

Dated: October 1, 2010.

Barry J. Conway,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2010–25732 Filed 10–12–10; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 7207]

Culturally Significant Objects Imported for Exhibition Determinations: "India's Fabled City: The Art of Courtly Lucknow"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition "**India's Fabled City: The Art of Courtly Lucknow,**" imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Los Angeles County Museum of Art, Los Angeles, CA, from on or about December 12, 2010, until on or about February 27, 2011, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: October 5, 2010.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs,Department of State.

[FR Doc. 2010–25748 Filed 10–12–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7197]

Persons and Entities on Whom Sanctions Have Been Imposed Under the Iran Sanctions Act of 1996

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Secretary of State has determined that the Naftiran Intertrade Company (NICO) has engaged in a sanctionable investment described in section 5(a)(1) of the Iran Sanctions Act of 1996 (ISA) (50 U.S.C. 1701 note) and that certain sanctions should be imposed as a result.

DATES: *Effective Date:* October 13, 2010.

FOR FURTHER INFORMATION CONTACT: On general issues: Norman Galimba, Office of Terrorism Finance and Economic Sanctions Policy, Department of State, *Telephone:* (202) 647–9813. For U.S. Government procurement ban issues: Kimberly Triplett, Office of the Procurement Executive, Department of State, *Telephone:* (703) 875–4079.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated to the Secretary of State in the Presidential Memorandum of November 21, 1996, 61 FR 64249 (the "Delegation Memorandum"), the Secretary has determined that NICO has engaged in a sanctionable investment described in section 5(a) of the ISA, as in effect on the day before the date of enactment of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 ("CISADA"). Pursuant to section 5(a) of the ISA and the Delegation Memorandum, and consistent with section 102(h)(2) of CISADA, the Secretary has determined to impose on NICO the following sanctions described in section 6 of the ISA:

1. Export-Import Bank assistance for exports to sanctioned persons. The Export-Import Bank of the United States shall not give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to NICO.

2. Export sanction. The United States Government shall not issue any specific license and shall not grant any other specific permission or authority to export any goods or technology to NICO under—

a. The Export Administration Act of 1979 (50 U.S.C. Appx. §§ 2401 *et seq.*);

b. The Arms Export Control Act (22 U.S.C. 2751 *et seq.*);

c. The Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*); or

d. Any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

3. Loans from United States financial institutions. United States financial institutions shall be prohibited from making loans or providing credits to NICO totaling more than $10,000,000 in any 12-month period unless NICO is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

4. Procurement sanction. The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from NICO.

These sanctions shall remain in effect until otherwise directed pursuant to the provisions of the ISA or other applicable authority. Pursuant to the authority delegated to the Secretary of State in the Delegation Memorandum, relevant agencies and instrumentalities of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this notice.

Dated: October 5, 2010.

Deborah McCarthy,

Acting Assistant Secretary of State for Economic, Energy and Business Affairs, Department of State.

[FR Doc. 2010–25734 Filed 10–12–10; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Delegation of Authority No. 333]

Re-Delegation by the Under Secretary of State to the Director, Office of Chemical and Biological Weapons Affairs, of the Functions and Authorities Pertaining to the United States National Authority

By virtue of the authority vested in the Secretary of State by the laws of the United States, including by Section 101 of the Chemical Weapons Convention Implementation Act of 1998, Division I of Pub. L. 105–277, codified at 22 U.S.C. 6711(c), and delegated to me by Section 2(a)(12) of Delegation of Authority 293–1, dated January 12, 2007, I hereby re-delegate to the Director, Office of Chemical and Biological Weapons Affairs, Bureau of Arms Control,

Verification, and Compliance, to the extent authorized by law, the authorities and functions pertaining to the Director of the United States National Authority. This delegation of authority shall take effect on October 1, 2010.

As used in this delegation of authority, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion or activity. A reference in this delegation of authority to a statute or delegation of authority shall be deemed to be a reference to such statute or delegation of authority as amended from time to time.

Notwithstanding any provision of this delegation of authority, the Secretary of State, the Deputy Secretary, the Deputy Secretary for Management and Resources, and the Under Secretary for Arms Control and International Security may at any time exercise any function delegated by this delegation of authority.

This delegation of authority shall be published in the **Federal Register**.

Dated: September 24, 2010.

Ellen O. Tauscher,

Under Secretary of State for Arms Control and International Security.

[FR Doc. 2010–25613 Filed 10–12–10; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2010–37]

Notice of Request for the Approval of Information Collection

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the following information collection: 49 U.S.C. Part 611—Major Capital Investment Projects.

DATES: Comments must be submitted before December 13, 2010.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: http://www.regulations.gov*. Follow the instructions for submitting comments on the U.S. Government electronic docket site. (**Note:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *http://www.regulations.gov*. Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *http://www.regulations.gov*. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *http://www.regulations.gov*.

Docket: For access to the docket to read background documents and comments received, go to *http://www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Day, Office of Planning and Environment, (202) 366–5159, or *e-mail: elizabeth.day@dot.gov*.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. Part 611—49 CFR Major Capital Investment Projects.

OMB Number: 2132–0561.

Background: On August 10, 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) was enacted. Sections 3011(d)(5) and 3011(e)(6) of SAFETEA–LU require FTA to issue regulations on the manner in which candidate projects for major capital investment grants for new fixed guideway systems, extensions to existing fixed guideway systems, or significant corridor based bus investments ("New Starts" and "Small Starts") will be evaluated and rated for purposes of the FTA Capital Investment Grant program under 49 U.S.C. Section 5309. An Advanced Notice of Proposed Rulemaking (ANPRM) for this regulation was issued on January 30, 2006, (71 FR 22841). A Notice of Proposed Rulemaking (NPRM) was issued on August 3, 2007, (72 FR 43328). The NPRM was withdrawn on February 17, 2009, due to an intervening statutory change resulting from the passage of the SAFETEA–LU Technical Corrections Act in June 2008. Another ANPRM for the regulation was issued on June 2, 2010 (75 FR 31383). FTA is reviewing the comments received on the ANPRM, and at this time a date for publication of the NPRM is not known.

FTA has a longstanding requirement to evaluate proposed projects against a prescribed set of statutory criteria at specific points during the projects' development including when they seek to enter preliminary engineering, final design, and a Full Funding Grant Agreement. In addition, FTA must report on its evaluations and ratings annually to Congress. The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) established in law a set of criteria that proposed projects had to meet in order to be eligible for federal funding. The requirement for summary project ratings has been in place since 1998. Thus, the requirements for project evaluation and data collection for New Starts projects are not new. One addition included in SAFETEA–LU is the Small Starts program. The Small Starts program enables smaller cost projects with a smaller requested share of Section 5309 major capital investment funds to progress through a simplified and streamlined project evaluation and data collection process. In general, the information used by FTA for New and Small Starts project evaluation and

rating should arise as a part of the normal planning process.

FTA has been collecting project evaluation information from project sponsors under the existing OMB approval for this program (OMB No. 2132–0561). However, due to modifications in the project evaluation criteria and FTA evaluation and rating procedures for the New Starts program and the addition of the Small Starts program, it became apparent that some information now required might be beyond the scope of ordinary planning activities. In particular, SAFETEA–LU creates additional requirements for before-and-after data collection as a condition of obtaining a Full Funding Grant Agreement (FFGA) or a Project Construction Grant Agreement (PCGA).

Respondents: State and local government.

Estimated Annual Burden on Respondents: Approximately 275 hours for each of the 135 respondents.

Estimated Total Annual Burden: 37,070 hours.

Frequency: Annual.

Issued: October 6, 2010.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. 2010–25653 Filed 10–12–10; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2010–0038]

Notice of Request for the Approval of Information Collection

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the following information collection:

Metropolitan and Statewide Transportation Planning.

DATES: Comments must be submitted before December 13, 2010.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (**Note:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *http://www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *http://www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *http://www.regulations.gov.*

Docket: For access to the docket to read background documents and comments received, go to *http://www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Candace Noonan, Office of Planning and Environment, (202) 366–1648, or *e-mail: candace.noonan@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Metropolitan and Statewide Transportation Planning.

OMB Number: 2132–0529.

Background: The Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) jointly carry out the federal mandate to improve urban and rural transportation. 49 U.S.C. Sections 5303 and 5304 and 23 U.S.C. 134 and 135 authorize the use of federal funds to assist Metropolitan Planning Organizations (MPOs), States, and local public bodies in developing transportation plans and programs to serve the transportation needs of urbanized areas over 50,000 in population and other areas of States outside of urbanized areas. The information collection activities involved in developing the Unified Planning Work Program (UPWP), the Metropolitan Transportation Plan, the Statewide Transportation Improvement Plan, the Transportation Improvement Program (TIP), and the Statewide Transportation Improvement Program (STIP) are necessary to identify and evaluate the transportation issues and needs in each urbanized area and throughout every state. These products of the transportation planning process are essential elements in the reasonable planning and programming of federally funded transportation investments.

In addition to serving as management tools for MPOs and State DOTs, the UPWP and State Planning and Research (SP&R) Work Program are used by both FTA and FHWA to monitor the transportation planning activities of those agencies. It is also needed to establish national out year budgets and regional program plans, develop policy on using funds, monitor State and local compliance with national technical emphasis areas, respond to Congressional inquiries, prepare Congressional testimony, and ensure efficiency in the use and expenditure of federal funds by determining that planning proposals are both reasonable and cost-effective. 49 U.S.C. Section 5303 and 23 U.S.C. 134(h) require the development of TIPs for urbanized areas; STIPs are mandated by 49 U.S.C. Section 5304 and 23 U.S.C. 235(f) for an entire State. After approval by the Governor and MPO, metropolitan TIPs in attainment areas are to be incorporated directly into the STIP. For nonattainment areas, FTA/FHWA must make a conformity finding on the TIPs before including them into the STIP. The complete STIP is then jointly reviewed and approved or disapproved

by FTA and FHWA. These conformity findings and approval actions constitute the determination that Sates are complying with the requirements of 23 U.S.C. 235 and 49 U.S.C. Sections 5303 and 5304 as a condition of eligibility for federal-aid funding. Without these documents, approvals and findings, capital and/or operating assistance cannot be provided.

Respondents: State Departments of Transportation (DOTs) and MPOs.

Estimated Annual Burden on Respondents: 621 hours for each of the 436 respondents.

Estimated Total Annual Burden: 270,756 hours.

Frequency: Annual.

Issued: October 6, 2010.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. 2010–25656 Filed 10–12–10; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Vermont

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, the Southern Connector/Champlain Parkway in the City of Burlington, Chittenden County, Vermont. Those actions grant approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before April 11, 2011. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Kenneth R. Sikora, Jr., Environmental Program Manager, Federal Highway Administration, P.O. Box 568, Montpelier, Vermont 05601–0568; telephone: (802) 828–4573; e-mail: *Kenneth.Sikora@dot.gov.* The FHWA Vermont Division Office's normal business hours are 8 a.m. to 4:30 p.m. (eastern time). For the Vermont Agency of Transportation: Mr. Wayne Davis, Project Supervisor, Vermont Agency of Transportation, One National Life Drive, Montpelier, Vermont 05633; telephone: (808) 828–5609; e-mail: *Wayne.Davis@state.vt.us.* The Vermont Agency of Transportation's normal business hours are 7:45 a.m. to 4:30 p.m. (eastern time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA, has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing approvals for the following highway project in the State of Vermont: the Southern Connector/Champlain Parkway, Federal-aid Project Number MEGC–M5000(1), in the City of Burlington, Chittenden County. The project will consist of approximately 2.3 miles of a two-lane roadway with turning lanes on both new location and existing roadways. The project will begin at the western terminus of I–189 at Shelburne Street (U.S. Route 7) and will extend westerly and then northerly to the City Center District (CCD) at the intersection of Pine Street and Main Street. The general purposes of the project are to improve access from the vicinity of the interchange of I–189 and U.S. Route 7 to the Burlington CCD and the downtown waterfront area; and to improve circulation, reduce congestion, and improve safety on the local roadways in the project study area. The project includes a section of previously constructed roadway that has never been opened to traffic, new alignment from the end of the previously constructed section to Lakeside Avenue, and existing roadway along Lakeside Avenue and Pine Street. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Supplemental Environmental Impact Statement (FSEIS) for the project, approved on September 22, 2009, in the FHWA Record of Decision (ROD) issued on January 13, 2010, and in other documents in the FHWA project files. The FSEIS, ROD, and other project records are available by contacting the FHWA or the Vermont Agency of Transportation at the addresses provided above. The FHWA FSEIS and ROD can also be viewed and downloaded from the project Web site at *http://www.aot.state.vt.us/progdev/Sections/LTF/SouthernConnectorSEIS/SouthernConnectorFSEIS.htm.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

3. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

4. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: October 6, 2010.

Kenneth R. Sikora, Jr.,

Environmental Program Manager, Montpelier, Vermont.

[FR Doc. 2010–25696 Filed 10–12–10; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the Route 250 Bypass Interchange at McIntire Road Project in Virginia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to the Route 250 Bypass Interchange at McIntire Road project in the City of Charlottesville, Virginia. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the project will be barred unless the claim is filed on or before April 11, 2011. Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 180 days after publication of a notice in the **Federal Register** announcing that the permit, license, or approval is final

pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed.

FOR FURTHER INFORMATION CONTACT: Mr. John Simkins, Senior Environmental Specialist, Federal Highway Administration, 400 North 8th Street, Richmond, Virginia 23219; telephone: (804) 775–3342; e-mail: *John.Simkins@dot.gov*. The FHWA Virginia Division Office's normal business hours are 7 a.m. to 5 p.m. (eastern time). For the City of Charlottesville (the project sponsor): Ms. Angela Tucker, Development Services Manager, P.O. Box 911, Charlottesville, Virginia 22902; telephone: (434) 970–3993; e-mail: *tuckera@charlottesville.org*. The City of Charlottesville's normal business hours are 8 a.m. to 5 p.m. (eastern time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following project in the State of Virginia: Route 250 Bypass Interchange at McIntire Road. The project would involve construction of a grade-separated interchange at the existing intersection of Route 250 Bypass and McIntire Road. The project would reduce traffic congestion and improve community mobility. The actions taken by FHWA, and the laws under which such actions were taken, are described in the Revised Environmental Assessment, the letter finalizing the Environmental Assessment process and requesting a Finding of No Significant Impact (FONSI), the FONSI that was issued on September 29, 2010, the Final Section 4(f) Evaluation that was approved on September 29, 2010, and in other documents in the FHWA project records. The Revised Environmental Assessment, the letter finalizing the Environmental Assessment process and requesting a FONSI, the FONSI, and the Final Section 4(f) Evaluation can be viewed on the project's internet Web site at *http://www.250interchange.org*. These documents and other project records are also available by contacting FHWA or the City of Charlottesville at the phone numbers and addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

6. *Social and Economic:* Farmland Protection Policy Act [7 U.S.C. 4201–4209].

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C 139(*l*)(1).

Issued on: October 6, 2010.

John Simkins,

Senior Environmental Specialist.

[FR Doc. 2010–25697 Filed 10–12–10; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35383]

Eastern Berks Gateway Railroad Company—Modified Rail Certificate—in Berks County, PA

On September 13, 2010, Eastern Berks Gateway Railroad Company (EBGR), a noncarrier, filed a notice for a modified certificate of convenience and necessity under 49 CFR pt. 1150 subpart C—*Modified Certificate of Public Convenience and Necessity* to lease and operate an approximately 8.6-mile line of railroad between milepost 0.0 at Pottstown and milepost 8.6 at Boyertown in Berks County, Pa. (Colebrookdale Line).

The Colebrookdale Line was authorized for abandonment by the Board in *East Penn Railroad—Abandonment Exemption—In Berks and Montgomery Counties, Pa.,* Docket No. AB 1020X (STB served Nov. 18, 2008). Although authorized for abandonment, the line was subsequently acquired by Berks County, Pa. (the County), pursuant to 49 CFR 1150.22.[1]

Pursuant to a Lease and Operating Agreement, EBGR, as lessee, and the County, as owner, have agreed that EBGR will commence freight rail operation on or about September 15, 2010, for a term of 5 years, which may be extended up to 1 additional 5-year term. Under the Lease and Operating Agreement, the County is responsible for restoring the Colebrookdale Line to Federal Railroad Administration Class 2 condition prior to EBGR's commencement of operations, and will retain responsibility for the cost of certain bridge and grade crossing rehabilitation. As operator of the Colebrookdale Line, EBGR will provide rail freight service to the only interline connection, Norfolk Southern Railway Company, at milepost 0.0, at Pottstown. EBGR intends to provide rail service twice weekly or on an as-needed basis.

This transaction is related to the verified notice of exemption filed in *US Rail Partners, Ltd. and Blackwell Northern Gateway Railroad—Continuance in Control Exemption—Eastern Berks Gateway Railroad,* Docket No. FD 35384 (STB served July 15, 2010), wherein US Rail Partners, Ltd. (USRP), and Blackwell Northern Gateway Railroad Company (BNGR) seeks to continue in control of EBGR, upon EBGR becoming a Class III rail carrier.

The rail segment qualifies for a modified certificate of public convenience and necessity. *See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions,* Docket No. FD 28990F (ICC served July 16, 1981).

EBGR states that no subsidy is involved and that there are no preconditions for shippers to meet in order to receive rail service. EBGR also states that the Lease and Operating Agreement requires it to obtain liability insurance coverage.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement at 425 Third Street, SW., Suite 1000, Washington, DC 20024; and on the American Short Line and Regional Railroad Association at 50 F Street, NW., Suite 7020, Washington, DC 20001.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

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[1] The County originally filed an offer of financial assistance (OFA) to acquire the Colebrookdale Line. The Board subsequently set the terms and conditions for the acquisition via OFA. *See E. Penn R.R.—Abandon. Exemption—In Berks and Montgomery Counties, Pa.,* Docket No. AB 1020X (STB served Jan. 28, 2009). However, the County acquired the Colebrookdale Line under 49 CFR 1150.22 rather than under the OFA process. *See E. Penn R.R.—Abandon. Exemption—In Berks and Montgomery Counties, Pa.,* AB 1020X (STB served Apr. 9, 2009).

Decided: October 6, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2010–25704 Filed 10–12–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 1, 2010.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the **Paperwork Reduction Act of 1995, Public Law 104–13** on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before November 12, 2010 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0036.

Type of Review: Renewal.

Title: Imposition of Special Measure Against Commercial Bank of Syria, Including its Subsidiary, Syrian Lebanese Commercial Bank, as a Financial Institution of Primary Money Laundering Concern.

Description: This information will be used to verify compliance by financial institutions with the requirements to notify their correspondent account holders.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Reporting Burden: 5,000 hours.

Bureau Clearance Officer: Russell Stephenson (202) 354–6012, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183; (202) 354–6012.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. 2010–25760 Filed 10–12–10; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Senior Executive Service; Legal Division Performance Review Board

AGENCY: Department of the Treasury.

ACTION: Notice of members of the Legal Division Performance Review Board (PRB).

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Legal Division PRB. The purpose of this Board is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses, and other appropriate personnel actions for incumbents of SES positions in the Legal Division.

DATES: *Effective Date:* October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Office of the General Counsel, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 3000, Washington, DC 20220, *Telephone:* (202) 622–0283 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Composition of Legal Division PRB

The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half the members shall consist of career appointees. Composition of the specific PRBs will be determined on an ad hoc basis from among the individuals listed in this notice.

The names and titles of the PRB members are as follows:

Rupa Bhattacharyya, Deputy Assistant General Counsel (International Affairs);

Peter A. Bieger, Deputy Assistant General Counsel (Banking and Finance);

George Bostick, Benefits Tax Counsel;

Manal Corwin, International Tax Counsel;

Himamauli Das, Assistant General Counsel (International Affairs);

Rochelle F. Granat, Assistant General Counsel (General Law, Ethics and Regulation);

Richard G. Lepley, Deputy Assistant General Counsel (General Law and Regulation);

M.J.K. Maher, Jr., Deputy Assistant General Counsel (Enforcement & Intelligence);

Margaret V. Marquette, Chief Counsel, Financial Management Service;

Christopher J. Meade, Principal Deputy General Counsel;

Mark Monborne, Assistant General Counsel (Enforcement & Intelligence);

Clarissa C. Potter, Deputy Chief Counsel (Technical), Internal Revenue Service;

Kevin Rice, Chief Counsel, Bureau of Engraving and Printing;

Laurie Schaffer, Assistant General Counsel (Banking and Finance);

Daniel P. Shaver, Chief Counsel, United States Mint;

Sean M. Thornton, Chief Counsel, Office of Foreign Assets Control;

Robert M. Tobiassen, Chief Counsel, Alcohol and Tobacco Tax and Trade Bureau;

Christian A. Weideman, Deputy General Counsel;

William J. Wilkins, Chief Counsel, Internal Revenue Service; and

Paul Wolfteich, Chief Counsel, Bureau of Public Debt.

Dated: October 5, 2010.

George W. Madison,

General Counsel.

[FR Doc. 2010–25726 Filed 10–12–10; 8:45 am]

BILLING CODE 4810–25–P

Federal Register

Wednesday,
October 13, 2010

Part II

Federal Communications Commission

47 CFR Parts 1, 2, 15, et al.
WRC–07 Table Clean-up Order; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2 15, 25, 73, and 90

[DA 10–762]

WRC–07 Table Clean-up Order

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document makes non-substantive, editorial revisions to the Table of Frequency Allocations (Allocation Table), and to various other Commission rules. The purpose of this action is to update and clarify the Allocation Table, to remove obsolete and outdated provisions from the Commission's rules, and to ensure that the Allocation Table and related rules are consistent with the Commission's decisions in recent rulemaking proceedings.

DATES: Effective October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, Office of Engineering and Technology, (202) 418–2450, *e-mail: tom.mooring@fcc.gov,* TTY (202) 418–2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* DA 10–762, adopted July 20, 2010 and released July 21, 2010. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.*

Summary of the Order

1. By this action the Commission amends parts 1, 2, 15, 25, 73, and 90 of the Commission's rules in order to make non-substantive, editorial revisions to the Table of Frequency Allocations (Allocation Table), related rule sections in part 2, and certain service rules. This action is not intended to modify or otherwise change any licensee's underlying legal rights and/or responsibilities. In particular, the Commission updates the International Table of Frequency Allocations (International Table) within the Allocation Table so that it reflects the allocation changes that were made at the World Radiocommunication Conference (Geneva, 2007) (WRC–07), which can be found in the *WRC–07 Final Acts.* The Commission implements these amendments to the Allocation Table with the assistance and concurrence of the National Telecommunications and Information Administration (NTIA). This action serves as a prelude to a rulemaking proceeding that the Commission anticipates initiating in the near future to address substantive changes to the United States Table of Frequency Allocations (U.S. Table) that will be necessary to implement the *WRC–07 Final Acts.*

Discussion

A. Updates to Display Format of the Allocation Table

Frequency Nomenclature

1. In Radio Regulation No. 2.1 of the 2008 Edition of the ITU *Radio Regulations,* frequencies are expressed in kilohertz (kHz) up to and including "3 000" kHz (*i.e.,* 3,000 kHz). In accordance with ITU Radio Regulation No. 2.1, the Commission's Allocation Table is revised by expressing frequencies in the High Frequency (HF) spectrum from 3025 to 27500 kHz in megahertz (MHz), *i.e.,* from 3.025 to 27.5 MHz. This action simplifies the Allocation Table, minimizes a style difference between the ITU Allocation Table and the Commission's Allocation Table and should help avoid any confusion. WRC–07 added an explanatory note to the ITU *Radio Regulations* allowing reasonable departures from this style convention where it would pose serious difficulties (ITU Radio Regulation No. 2.1). Thus, in this Order, the explanatory note is reproduced in § 2.101(b).

Placement of U.S. Footnotes

2. In the *First Table Clean-up Order,* the Commission adopted the ITU's placement methodology for footnote references in the U.S. Table. Thus, footnote references which appear in the U.S. Table under the allocated services in a band apply to more than one of the allocated services. Footnote references which appear to the right of a service allocation name are applicable only to that particular service. The Commission continues to believe that associating a footnote reference with its pertinent service will assist readers in more easily understanding the restrictions and/or other information pertaining to that allocation.

3. At NTIA's request, however, the Commission makes a refinement to its U.S. footnote placement policy. Specifically, in the case of bands with the same service allocation name listed in both the Federal and non-Federal Tables, the Commission adds the condition that for a U.S. footnote to be placed to the right of the service allocation name in the Federal Table, the U.S. footnote must contain a stipulation that is applicable to Federal operations. Similarly, for a U.S. footnote to be placed to the right of the service allocation name in the non-Federal Table, the U.S. footnote must contain a stipulation that is applicable to non-Federal operations. As an example, US13 provides for non-Federal use of 48 frequencies in 3 Federal bands (162.0125–173.2, 406.1–410, and 410–420 MHz). Under the Commission's current policy, US13 is placed at the bottom of the cell in the non-Federal Table, but is placed to the right of the fixed service (FS) allocation entry in the Federal Table, *i.e.,* "FIXED US13." Because US13 provides only for non-Federal use, however, the Commission believes it is misleading that US13 is placed to the right of the Federal FS allocation entry. Accordingly, the Commission modifies its U.S. footnote display policy, as described in the *Order,* to account for such a scenario. Consequently, the Commission moves US13 to the bottom of the cell in the Federal Table. Similarly, the Commission moves US319 (which restricts Federal use of certain mobile-satellite service (MSS) allocations to earth stations operating with non-Federal space stations) to the bottom of the cell in the non-Federal Table in the bands 148–149.9, 400.15–401, and 2483.5–2500 MHz.

Basing Domestic Footnote Numbers on Frequency Order

4. The Commission's practice for adding domestic (*i.e.,* U.S., non-Federal, and Federal) footnotes to the U.S. Table has generally been to number these footnotes in ascending order, based solely on the date when the footnote was adopted (*i.e.,* in chronological order). As a result, because there are currently only 176 actual U.S. footnotes to the U.S. Table within the existing range of U.S. footnote numbers (*i.e.,* 1–402) there are 226 unused U.S. footnote numbers.

5. International footnotes to the ITU Allocation Table, however, are organized and numbered in frequency order (*i.e.,* footnotes are numbered according to the relative place in the radio spectrum of the frequency(ies) to which they refer). For example, currently the first international footnote (RR 5.53) concerns operations below 9 kHz and the last international footnote (RR 5.565) concerns operations in the band 275–1000 GHz. Generally, when a World Radiocommunication Conference adopts a new international footnote, the

Conference adds the footnote to the ITU Allocation Table between two existing footnotes, and, if necessary, it appends a letter (or multiple letters) to the lower-adjacent footnote's number in order to not disturb the existing frequency order and footnote numbering (*e.g.,* WRC–07 added RR 5.430A between RR 5.430 and RR 5.431). However, in some cases, a Conference may decide to renumber an international footnote in order to preserve the sequential order. For example, WRC–07 added three bands (137–138, 387–390, and 400.15–410 MHz) to RR 5.347A which are under the lowest band that was listed in RR 5.347A prior to WRC–07 (*i.e.,* 1452–1492 MHz). Consequently, WRC–07 renumbered RR 5.347A as RR 5.208B. In Appendix B, the complete list of active international footnotes is shown. The Commission does not include the international footnotes that WRC–07 suppressed (*i.e.,* removed) or show the text of those that have expired.

6. In this Order, on a going-forward basis, the Commission implements a new numbering system for domestic footnotes that is based on frequency order. Specifically, for a new (including "place-holder") domestic footnote, the Commission will number the footnote in frequency order. For a modified domestic footnote, the Commission will consider whether to renumber the footnote in frequency order in the proceeding addressing the modifications to the footnote. Such actions will better align the U.S. Table with the ITU Allocation Table, which will bring greater consistency to § 2.106, and thereby make the Allocation Table more useful to the public and spectrum managers. In addition, the Commission believes that numbering domestic footnotes in frequency order will make them easier for readers to view because, in many instances, the footnotes from cells with multiple footnotes will be grouped together in the United States, non-Federal Government, and Federal Government footnotes that follow the Allocation Table in § 2.106 of the Commission's rules. However, in order to ensure that the transition is non-disruptive for the public and spectrum managers, the Commission restricts the renumbering in frequency order to those footnotes that are significantly revised in this Order.

7. The Commission makes an exception to our new domestic footnote numbering policy. Specifically, if a new, place-holder, or modified domestic footnote is based, in part, on an international footnote, the Commission will number the domestic footnote by using, where possible, the related international footnote's number (*i.e.,* if there is not an existing domestic footnote with the same number as the related international footnote). For example, for the place-holder footnotes discussed in this Order, the Commission bases the numbering on the related international footnote's number. For modified domestic footnotes, the Commission will consider in the associated proceeding whether to renumber the footnote with a related international footnote's number. The Commission believes this action will assist both the public and spectrum managers by improving the organization and readability of the U.S. Table and by "pointing to" the international footnote on which, in part, the domestic footnote is based. Consequently, the Commission amends the domestic footnote numbering nomenclature of the U.S. Table specified in § 2.105(d)(5)(ii), (iii), and (iv) of the Commission's rules to allow for the use of a letter (or letters) after the digits of a domestic footnote number. Similarly, the Commission amended § 2.105(d)(5)(i) of the Commission's rules to recognize that a World Radiocommunication Conference may append a letter, or letters, after the digits of the footnote number when it adds a new international footnote to the ITU Allocation Table. In order to ensure that this transition is non-disruptive for the public and spectrum managers, at this time, the Commission renumbers based on a related international footnote's number only those footnotes that are significantly revised in this Order.

8. In this Order, the Commission adds 14 U.S. footnotes and 3 non-Federal footnotes to the Allocation Table and reuses 2 existing U.S. footnote numbers (US226, US269). Specifically, consistent with our new frequency-order footnote numbering policy, the Commission: Adds a new footnote—US22—in order to reflect in the U.S. Table 28 frequencies designated for disaster communications and 40 frequencies designated for long distance communications; renumbers 7 revised footnotes—US216, US294, US335, US399, NG19, NG128, and NG142; and combine two footnotes—US351 and US352 (US37). However, for the following new or renumbered footnotes, the Commission assigns numbers based on a related international footnote's number: The combination of US366, US367, and US396 into a single footnote (US136); a new footnote—US142—that, *inter alia,* highlights the availability of the high frequency broadcasting (HFBC) bands 7.2–7.3 and 7.4–7.45 MHz in Region 3 insular areas for U.S. international broadcasters; four new place-holder footnotes that replicate the pre-WRC–07 text of four international footnotes which WRC–07 either modified or suppressed; revised versions of US217 and US229; the combination of US7 and NG135 into a single footnote (US270); and the combination of US269 and US311 into a single footnote (US385).

B. Updates to International Table

9. In this Order, the Commission updates the International Table to reflect Article 5, Section IV of the ITU *Radio Regulations,* Edition of 2008, except as described herein. During our preparation of this Order, the Commission discovered several display errors in the ITU Allocation Table. Consistent with past practice, the Commission will not replicate typographical or other errors that hold the potential to cause reader confusion or convey misleading information. Accordingly, the Commission incorporates the following corrections and updates in the International Table in § 2.106 of the Commission's rules. First, listed in alphabetical order according to the French language: The primary services in the Region 2 Table followed by the secondary service for the band 698–806 MHz; the services in the Region 1 Table for the band 790–862 MHz; and the services in the bands 960–1164, 1300–1350, 9300–9500, and 9500–9800 MHz. Second, the Commission places RR 5.345 under the allocated services in the Region 1, Region 2, and Region 3 Tables for the band 1452–1492 MHz. Third, the Commission merges the bands 2120–2160 and 2160–2170 MHz in the Region 1 and Region 3 Tables to form the band 2120–2170 MHz because those bands list the same services and footnotes. The Commission bases these corrections and updates upon the format specified in the ITU *Radio Regulations.*

10. With regard to international footnotes, the Commission makes the following 34 corrections: Revise the text of 32 international footnotes (5.58, 5.141, 5.143C, 5.165, 5.169, 5.173, 5.185, 5.201, 5.202, 5.206, 5.247, 5.279A, 5.281, 5.319, 5.322, 5.342, 5.352A, 5.388B, 5.389F, 5.400, 5.417A, 5.425, 5.439, 5.447F, 5.453, 5.468, 5.494, 5.500, 5.508A, 5.509A, 5.522C, and 5.549) so that it fully comports with the ITU *Radio Regulations;* capitalize "Earth" in RR 5.335; and 3) change "service" to "services" in the last sentence of RR 5.482. In addition, the Commission makes the following simplifications in 13 international footnotes: Update the cross references to 8 ITU Resolutions (Resolutions 33, 124, 143, 212, 221, 222, 223, and 528) in 8 international footnotes (5.345, 5.353A,

5.357A, 5.388, 5.388A, 5.396, 5.462A, and 5.516B) to the version listed in Volume 3 of the 2008 Edition of the ITU *Radio Regulations;* remove the text of 4 international footnotes relating to the recently concluded 7 MHz Realignment (5.138A, 5.139, 5.141C, and 5.143E) from § 2.106; and do not show note 1 of RR 5.208A (which states that this footnote was previously numbered as RR 5.347A). For the 15 international footnotes that have either been corrected or simplified in § 2.106, the Commission adds the notation "(FCC)" to the end of the footnote.

11. The Commission also partially implements a notation scheme used in the ITU *Radio Regulations* in the Commission's list of international footnotes. Specifically, the abbreviation "(WRC–07)" to the right of an international footnote signifies that WRC–07 modified or added the footnote.

C. Updates to International Footnotes in the U.S. Table

Suppressed International Footnotes

12. WRC–07 suppressed three international footnotes (5.83, 5.199, and 5.476) that the U.S. Table currently references. In this Order, the Commission removed the references to these international footnotes from the U.S. Table. Prior to WRC–07, RR 5.83 stated that 500 kHz is an international distress and calling frequency for Morse radiotelegraphy. Because the Commission previously removed any reference to 500 kHz as a distress and safety frequency from part 80 of its rules, the Commission removes the reference to RR 5.83 from the U.S. Table. Prior to WRC–07, RR 5.199 allocated two 100-kilohertz bands to the MSS for the reception on board satellites of emissions from emergency position-indicating radiobeacons (EPIRBs) transmitting on 121.5 and 243 MHz. Because the National Oceanic and Atmospheric Administration (NOAA) ceased satellite processing of 121.5/243 MHz emergency beacons' signals on February 1, 2009, at the request of NTIA, the Commission removed the references to RR 5.199 from the U.S. Table. Prior to WRC–07, RR 5.476 contained a prohibition on the use of shipborne radars in the band 9300–9320 MHz (other than those existing on January 1, 1976). Because this international prohibition expired on January 1, 2001, and because the Commission has already removed the prohibition from part 80 of its rules, it now removes the references to RR 5.476 from the U.S. Table.

Modified International Footnotes

13. WRC–07 modified 19 international footnotes that are currently referenced in the U.S. Table. In this section, the Commission reviews these international footnotes. Three of these international footnotes—5.444, 5.444A, and 5.519—embody substantive allocation changes that, in order to become effective in the United States, would need to be adopted in a future rulemaking proceeding. Because in this Order the Commission updates the text of all international footnotes to reflect the *WRC–07 Final Acts,* it also creates three place-holder U.S. footnotes—US444, US444A, and US519—that replicate the pre-WRC–07 text of RR 5.444, RR 5.444A, and RR 5.519, respectively, and replace the references to these three international footnotes in the U.S. Table. By these actions, the Commission maintains the *status quo* in the U.S. Table until such time as the Commission may consider the substantive modifications that WRC–07 made to these three international footnotes. The Commission addresses these three international footnotes in the following paragraphs.

14. Prior to WRC–07, RR 5.444 stated that, in the band 5030–5150 MHz, the requirements of the international standard system (microwave landing system or MLS) take precedence over other uses of this band. WRC–07 revised RR 5.444 such that MLS requirements take precedence over other uses only in the band 5030–5091 MHz. Thus, the Commission adds a new place-holder US444 to the list of U.S. footnotes and, in the Federal and non-Federal Tables, the Commission replaces the references to RR 5.444 with that of US444. The text of new US444 is the same as the pre-WRC–07 text of RR 5.444, except that the reference to "No. 5.444A" is revised to read as "US444A."

15. Prior to WRC–07, RR 5.444A stated, *inter alia,* that in the band 5091–5150 MHz, after January 1, 2012, no new assignments will be made to earth stations providing feeder links for non-geostationary orbit (NGSO) systems; and that, prior to January 1, 2018, MLS requirements which cannot be met in the band 5000–5091 MHz take precedence over other uses of this band. WRC–07 revised RR 5.444A by extending the date after which no new assignments will be made to earth stations providing NGSO feeder links to January 1, 2016, and by suppressing MLS precedence over other uses of the band 5091–5150 MHz. Thus, to preserve the *status quo* in the U.S. Table, the Commission adds a new place-holder footnote US444A to the list of U.S. footnotes and, in the non-Federal Table, the Commission replaces the reference to RR 5.444A with that of US444A. The text of new US444A is the same as the pre-WRC–07 text of RR 5.444A, except that the Commission added the phrase "for non-Federal use." In order for the WRC–07 modifications to RR 5.444 and RR 5.444A to become effective in the United States, the Commission must adopt them in a future rulemaking proceeding.

16. Prior to WRC–07, RR 5.519 stated that the band 18.1–18.3 GHz is also allocated to the meteorological-satellite service (space-to-Earth) on a primary basis, that use of this allocation is limited to geostationary orbit (GSO) satellites, and that the power flux-density (pfd) limits must be in accordance with the provisions of Article 21, Table 21–4. WRC–07 expanded this allocation by 100 megahertz in all Regions, and removed the cross reference to the pfd limits in Table 21–4. Thus, the Commission adds new place-holder US519 to the list of U.S. footnotes and, in the Federal and non-Federal Tables, the Commission replaces the references to RR 5.519 with those of US519. The text of new US519 is the same as the pre-WRC–07 text of RR 5.519. In order for the WRC–07 allocation decision contained in RR 5.519 to become effective in the United States, the Commission must adopt it in a future rulemaking proceeding.

17. Prior to WRC–07, RR 5.227 designated the frequency 156.525 MHz exclusively to digital selective calling (DSC) for distress, safety, and calling. WRC–07, however, took the text from RR 5.227, modified it slightly and combined it with the modified text of RR 5.226, and then reused the footnote number 5.227 for another allocation. In combining the revised requirements for 156.525 MHz with the modified text of RR 5.226, WRC–07 highlighted the 156.525 MHz MMS frequency, additionally specified a 75-kilohertz allocation centered at 156.525 MHz (i.e., 156.4875–156.5625 MHz) for the MMS, and restricted the use of this allocation to distress, safety, and calling via DSC. In addition, WRC–07 revised Appendix 18 of the ITU *Radio Regulations* to require that all precautions be taken to avoid harmful interference to the frequency 156.525 MHz when using the adjacent frequencies (156.500 and 156.550 MHz). In order to preserve the *status quo* in the U.S. Table, the Commission adds a new place-holder footnote—US226—to the list of U.S. footnotes that replicates the pre-WRC–07 text of RR 5.226 and RR 5.227 that is applicable to the 156.2475–156.7625 MHz band, and, in the Federal and non-

Federal Tables, the Commission replaces the references to RR 5.226 and RR 5.227 in that band (156.2475–156.7625 MHz) with that of US226. In order for the WRC–07 allocation decisions now in RR 5.226 and RR 5.227 to become effective in the United States, the Commission must adopt them in a future rulemaking proceeding.

18. WRC–07 modifications to the remaining 14 international footnotes are minor in nature, and require no further action on our part beyond updating the text of these footnotes to reflect the text now specified in the ITU *Radio Regulations.* Specifically, nine of the modified international footnotes (5.84, 5.108, 5.111, 5.115, 5.130, 5.145, 5.200, 5.256, and 5.266) involve the deletion of a reference to Appendix 13 of the ITU *Radio Regulations,* which WRC–07 suppressed, and five of the modified international footnotes (5.79A, 5.82, 5.134, 5.287, and 5.328A) involve updates and the removal of expired information.

D. Updates to U.S. Table and Domestic Footnotes Below 30 MHz

Fixed Use of Maritime Radiotelephony Frequencies

19. Section 80.371 of the rules describes the radiotelephony working frequencies that are assignable to ship and public coast stations. Paragraph (a) of § 80.371 contains a table that describes the working carrier frequency pairs in the band 2000–4000 kHz. NG19 states that fixed stations associated with the maritime mobile service (MMS) may be authorized, for purposes of communication with coast stations, to use the frequencies that are assignable to ship stations in this band on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

20. Because NG19 does not explicitly state the bands to which it applies, it may not be readily apparent to readers that it applies to the three bands in which it is listed in the U.S. Table (*i.e.,* 2000–2065, 2107–2170, and 2194–2495 kHz). In order to assist readers, the Commission explicitly lists the three bands in NG19, and provide a cross reference to § 80.371(a) for the list of available carrier frequencies. Also, NG19 applies to two services. Accordingly, in the bands 2107–2170 and 2194–2495 kHz, the Commission moves the reference to NG19 in the non-Federal Table from the right of the mobile except aeronautical mobile service (MS except AMS) allocation to the bottom of the cell. Because the Commission revises NG19, it also renumbers this footnote in frequency order as NG7.

21. The Commission also notes that the band 2000–3000 kHz is listed in the Public Safety Pool Frequency Table in § 90.20(c)(3) and that its use is restricted to fixed stations that operate in accordance with Limitation 75. The Commission further notes that only the bands 2107–2170 and 2194–2495 kHz in the U.S. Table contain the appropriate cross references in the FCC Rule Part Cross References column of the Allocation Table. Accordingly, for the band 2000–2065 kHz, the Commission adds "Private Land Mobile (90)" in the FCC Rule Part Cross References.

The 7 MHz Realignment

22. On March 10, 2005, the Commission implemented pertinent allocation decisions from the World Radiocommunication Conference (Geneva, 2003) (WRC–03) and updated certain of its service Rules. One of the most significant decisions in that action was the 7 MHz Realignment. Because the 7 MHz Realignment transition period concluded on March 29, 2009, the Commission has taken several actions to simplify and finalize the allocation display in the bands that comprise 6.765–8.1 MHz.

a. Non-Interference Basis (NIB) Operations in Eight HFBC Bands

23. Until March 29, 2009, the band 7.35–7.4 MHz (*i.e.,* the upper half of the 7 MHz band) was allocated in all Regions to the FS and HFBC on a co-primary basis and to the land mobile service (LMS) on a secondary basis. The upper half of the 7 MHz band is now allocated to the HFBC on an exclusive basis throughout the world, except in those countries listed in RR 5.143C where the FS and the HFBC continue to be allocated on a co-primary basis.

24. In this section, the Commission simplifies the authority for certain types of Federal and non-Federal stations to continue operating in eight HFBC bands in a manner that does not affect the ability of the general public in the United States to directly receive programming from international broadcast stations (NIB operations). Specifically, the Commission updates and consolidates the NIB authority for Federal stations in the FS to operate in 13 HF bands/sub-bands (HF NIB Bands), for Federal stations in the mobile except aeronautical mobile route (R) service (MS except AM(R)S) to also operate in 4 of these bands, and for grandfathered non-Federal stations to operate in certain of these bands.

25. First, the Commission notes that non-Federal operations in the 13 HF NIB bands are currently authorized in 2 U.S. footnotes—US366 and US396. Specifically, US366 restricts non-Federal use of the HF NIB Bands to stations in the FS and MS except AMS (*i.e.,* the LMS and the MMS) that were licensed prior to March 25, 2007. Given the existing non-Federal licensees in the HF NIB Bands that were licensed prior to March 25, 2007, US366 consequently authorizes the following non-Federal NIB operations: (1) MMS stations may continue operating in the bands 5.9–5.95, 13.57–13.6, 13.8–13.87, and 18.90–19.02 MHz (the 6, 13.6, 13.8, and 19 MHz bands), and in the band 7.3–7.35 MHz (*i.e.,* the lower half of the 7 MHz band); (2) FS and LMS stations may continue operating in the bands 7.3–7.35 MHz and 9.4–9.5 MHz (9 MHz); and (3) FS stations may continue operating in the bands 11.6–11.65, 12.05–12.1, 13.8–13.87, and 15.6–15.8 MHz (the 11, 12, 13.8, and 15 MHz bands). Further, US396 states that non-Federal use of the band 7.35–7.4 MHz (*i.e.,* the upper half of the 7 MHz band) is restricted to FS, LMS, and MMS stations that were licensed prior to March 29, 2009, except that a small sub-band at 7.3685–7.3713 MHz, within the upper half of the 7 MHz band, was not reallocated for exclusive HFBC use and is instead authorized for continued use by Alaska private-fixed stations.

26. Second, the Commission notes that Federal NIB operations in the 13 HF NIB Bands are currently authorized in 3 U.S. footnotes—US366, US367, and US396—and that new Federal stations may be authorized in 10 of theses bands. Specifically, US366 authorizes Federal FS stations to operate in 10 of the 13 HF NIB Bands, i.e., the 6, 9, 11, 12, 13.6, 13.8, 15, and 19 MHz bands, in the band 7.3–7.35 MHz (the lower half of the 7 MHz band), and in the band 17.48–17.55 MHz (17 MHz). US366 also authorizes Federal stations in the MS except AMS (*i.e.,* the LMS and MMS) to operate in the 6, 13.6, and 13.8 MHz bands, and in the lower half of the 7 MHz band.

27. Also, US367 authorizes Federal use of 3 of the 13 HF NIB Bands (9.775–9.9, 11.65–11.7, and 11.975–12.05 MHz). Specifically, Federal use of the band is restricted to FS stations that were authorized as of June 12, 2003, and each grandfathered station is restricted to a total radiated power of 24 dBW. Finally, US396 authorizes Federal stations in the FS, LMS, and MMS to operate in the upper half of the 7 MHz band.

28. Accordingly, the Commission combines the text of US366, US367, and US396 into a single U.S. footnote that consolidates the authority for Federal

and non-Federal stations to operate in the 13 HF NIB Bands. Consistent with our new footnote numbering policy, the Commission numbers this new U.S. footnote as US136.

29. The Commission observes that non-Federal stations in the FS, LMS, and MMS will operate on a NIB to foreign-licensed international broadcast stations, irrespective of whether they are recognized in US136. The focus of the Commission's action here is to better inform NTIA of non-Federal incumbent operations in the HF NIB Bands, and thereby minimize the effort required to coordinate new Federal FS and MS except AM(R)S stations in those bands. Therefore, because our review revealed that non-Federal LMS stations operate in the 9 MHz band, the Commission lists this service in the consolidated text of US136 despite the fact that the 9 MHz band was never allocated to that service. In addition, because the review revealed that there is no longer any non-Federal FS or LMS stations operating in the 6 MHz band or any non-Federal FS stations operating in the 13.8 MHz band, the Commission revised the consolidated text in US136 by removing these unused non-Federal allocations.

30. At the request of NTIA, the Commission revises the consolidated text in US136 in order to reflect the full range of Federal NIB assignments in the 6, 7, 13.6, and 13.8 MHz bands. Specifically, NTIA states that: The United States sought and obtained explicit authority in the ITU *Radio Regulations* (*see* RR 5.136 and RR 5.151) to operate stations in the FS and MS except AM(R)S in these bands; and the United States' right to operate stations in the MS except AM(R)S in the 7 MHz band on a NIB to HFBC is internationally recognized in ITU Radio Regulation No. 4.4. Because such operations by their nature do not affect non-Federal stations, the Commission concludes that this editorial revision promotes clarity by stating in the consolidated text of US136 that Federal stations in the MS except AM(R)S currently operate in the 6, 7, 13.6, and 13.8 MHz bands and that NTIA can authorize new Federal stations in the MS except AM(R)S in these bands.

31. As an aid to readers, the Commission revises the consolidated text in US136 as follows: In paragraph (a), we reflect the Commission's previous decision to alternatively allocate a small sub-band (*i.e.,* the "assigned frequency band" 7368.48–7371.32 kHz) within the upper 7 MHz band for continued use by Alaska private-fixed stations. In paragraph (b), we reflect the requirements that pertain to NIB use of the HFBC bands. In paragraphs (b)(1) and (b)(2), respectively, the Commission lists the restrictions that apply to Federal stations and non-Federal stations operating in the 13 HF NIB bands. The Commission also includes a table that lists the authorized Federal and non-Federal uses of the 13 HF NIB bands. Finally, the Commission removes the text of two expired U.S. footnotes—US394 and US395—from § 2.106 of the Commission's rules.

b. Amateur Radio Service and International Broadcast Stations

32. *40-meter band.* Because the 7 MHz Realignment transition period has concluded, the Commission replaces RR 5.142 (which contains an expired requirement regarding use of the band 7.1–7.2 MHz) in the U.S. Table with a new U.S. footnote that contains only the current requirement in RR 5.142 ("The use of the band 7.2–7.3 MHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3."). Consequently, the Commission numbers this new footnote as US142, which places it in frequency order and links it to the related international footnote RR 5.142. Also, in the FCC Rule Part Cross References column of the Allocation Table, the Commission changes all instances of "Amateur (97)" to read "Amateur Radio (97)."

33. *HFBC.* The Commission also highlight that, in the Region 3 insular areas, the bands 7.2–7.3 and 7.4–7.45 MHz are alternatively allocated for use by international broadcast stations that transmit their programming to listeners in Region 1 and Region 3 by reflecting this allocation from the Region 3 Table in new US142 and by separating these bands from the larger bands 7.1–7.3 and 7.4–8.1 MHz in the U.S. Table. The Commission takes this action because U.S. international broadcast stations regularly operate in these areas and because it allows us to highlight in the FCC Rule Part Cross References column that, in the U.S. Region 3 insular areas, the bands 7.2–7.3 and 7.4–7.45 MHz are available for licensing under part 73, subpart F (*i.e.,* international broadcast stations). In addition, as a consequence of the conclusion of the 7 MHz Realignment, we update § 73.702(f)–(h) to reflect the availability of spectrum for international broadcast stations.

34. In a related matter, the Commission simplifies the display of 14 HFBC bands in the U.S. Table by merging adjacent bands, which differ only by footnote references, to form 6 larger bands. In the FCC Rule Part Cross References column, the Commission replaces all instances of "Radio Broadcast (HF)(73)" with "International Broadcast Stations (73F)" in order to better highlight the availability of the spectrum for international broadcasting use.

Preferred Frequencies for Disaster and Long Distance Communications

35. In the Public Safety Pool Frequency Table, the use of frequencies in the band 2000 to 10,000 kHz (*i.e.,* 2–10 MHz) is restricted to disaster communications and operational communications circuits are expressly prohibited. Only the central governments of the 50 States, the District of Columbia, and the U.S. insular areas are eligible to use this spectrum. Section 90.264, *inter alia,* restricts disaster communications to those bands between 2 and 10 MHz that are allocated to the FS and LMS. By Public Notice, the Commission specified 28 carrier frequencies and their associated assigned frequencies as available for use in accordance with § 90.264 for disaster communications between 2 and 10 MHz.

36. The use of these 28 disaster frequencies is restricted in the Public Notice by power (1 kW peak envelope power (PEP)), emission type (2K80J3E), and class of station (fixed stations may operate on all frequencies; base and land mobile stations may also operate on the lowest 18 frequencies). Also, although 17 of the frequencies are available without geographic, purpose, or time restrictions, the Public Notice further restricted 11 of the disaster frequencies either by geographic scope (1 of the "Day only" use frequencies is available only for stations that are located in the conterminous U.S.), for a specific purpose (5 frequencies are designated as "alternate" and 5 frequencies are designated for "interstate coordination"), or by time of day (2 frequencies are available for "Day only" use). The Commission observes that NTIA agreed to nationwide non-Federal use of the 28 disaster frequencies in 1980, and thus, the Commission has not coordinated non-Federal use of these frequencies for approximately 28 years.

37. In the Industrial/Business Pool Frequency Table, the use of frequencies in the band 2000 to 25,000 kHz (*i.e.,* 2–25 MHz) is restricted to the purposes specified in Limitation 1, which is a cross reference to 47 CFR 90.35(c)(1), and by class of station(s) (fixed, base, or mobile). In addition, § 90.266, *inter alia,* restricts the use of any particular frequency between 2 and 25 MHz to those bands that are allocated to the FS and LMS.

38. By Public Notice, the Commission specified 40 carrier frequencies and their associated assigned frequencies in 6 bands (2194–2495 kHz; 3.155–3.4, 4.438–4.65, 5.005–5.45, 6.765–7, and 7.3–8.1 MHz) that are available for part 90 long distance communications. (The Commission notes that the band 7.3–7.4 MHz has since been reallocated to the HFBC.) The Public Notice specifies each frequency's station class (fixed stations may operate on all frequencies; land mobile and base stations may also operate on the 13 lowest frequencies; and itinerant fixed stations may also operate on the 27 highest frequencies) and that these stations do not require coordination with NTIA as long as the transmitter power does not exceed 1 kW PEP. In addition, these stations' emissions are limited to emission type 2K80J3E and as specified in § 90.266. Also, although 20 frequencies are available to these stations without time or geographic restrictions, the Commission restricted the use of the remaining 20 frequencies. Specifically, the Public Notice restricts 8 frequencies by time of day (1 frequency is for "Day only" use and 7 are for "Night only" use) and restricts 13 frequencies by geographic scope (5 frequencies are for stations located East of 108° West Longitude (approximately the Continental Divide), 1 frequency is for stations located West of the Mississippi River, and 7 frequencies are for stations located West of 90° West Longitude).

39. The Commission has discussed this matter with NTIA, and it is our joint conclusion that, because it has not been necessary to revise the lists of available frequencies since 1980, we should reflect these important and long-standing uses in the Allocation Table. Accordingly, the Commission reflect these frequencies in the Allocation Table by reproducing the list of 68 carrier frequencies and the restrictions on their use in a new U.S. footnote, which we number as US22. The Commission anticipates that most, if not all, non-Federal requirements for disaster and long distance communications can be met using these channels. In sum, this action is expected to be helpful to applicants by highlighting the availability of these frequencies and it in no way limits the Commission's ability to coordinate the use of other frequencies in the Federal/non-Federal shared bands with NTIA.

Power Line Carrier Systems

40. The Commission revises the text of US294 and a related reference in part 90 of the Commission's rules in order to clearly define the band within which Power Line Carriers (PLCs) must be coordinated in order to protect licensed stations, *i.e.,* the band 9–490 kHz. The Commission notes that this action is consistent with § 15.113(b), which states that: "The signals from this [PLC] operation shall be contained within the frequency band 9 kHz to 490 kHz." The Commission also updates a cross reference in part 15 of the Commission's rules. Specifically, the Commission revises: US294 by replacing the phrases "spectrum below 490 kHz" and "bands below 490 kHz" with the phrase "band 9–490 kHz" and by updating the PLC cross reference to the *NTIA Manual* from Chapter 7 to Chapter 8; § 90.35(g) by replacing the phrase "10–490 kHz" in the first sentence with the phrase "9–490 kHz;" and § 15.5(a) and 15.113(a) by updating the cross reference from "§ 90.63(g)" to "§ 90.35(g)." Because the Commission revises US294, it renumbers this footnote in frequency order as US2.

Forest Product Frequencies

41. The Commission clarifies and updates US298 by changing "Channels 27555 kHz, 27615 kHz, 27635 kHz, 27655 kHz, 27765 kHz, and 27860 kHz" to read "The assigned frequencies 27.555, 27.615, 27.635, 27.655, 27.765, and 27.860 MHz." The Commission notes that these six frequencies are listed in the Industrial/Business Pool Frequency Table and that the use of these frequencies is restricted to base and mobile stations that operate in accordance with Limitation 89 in part 90, which is a reproduction of US298. The Commission further notes that a cross reference to part 90 is not shown in the band 27.54–28 MHz and we correct this oversight in this Order.

E. Updates to U.S. Table and Domestic Footnotes for VHF Bands (30 to 300 MHz)

Maritime Mobile Bands Display Changes

42. At the request of NTIA, the Commission reflects the internationally specified uses for three VHF MMS frequencies—156.8, 161.975, and 162.025 MHz—as described.

a. Distress, Safety, and Calling Frequencies

43. The pre-WRC–07 version of RR 5.226 states that the frequency 156.8 MHz is the international distress, safety, and calling frequency for the maritime mobile VHF radiotelephone service and that the conditions for its use are contained in Article 31. In addition, a 75-kilohertz band centered on 156.8 MHz (*i.e.,* the band 156.7625–156.8375 MHz) is allocated exclusively for this purpose in all Regions (*i.e.,* the normal 25-kilohertz channel bandwidth that is authorized in the MMS is protected from harmful interference via the use of 25 kilohertz of guard-band spectrum on each side of the 25-kilohertz channel).

44. In the United States, although the frequency 156.8 MHz is used in accordance with the ITU *Radio Regulations* and RR 5.226 is currently listed in the Federal and non-Federal Tables, the 75-kilohertz band centered at 156.8 MHz is not directly shown in the U.S. Table. Instead, this allocation is codified in US107, which reads as follows:

US107 The frequency 156.8 MHz is the national distress, safety and calling frequency for the maritime mobile VHF radiotelephone service for use by Federal and non-Federal ship and coast stations. Guard bands of 156.7625–156.7875 and 156.8125–156.8375 MHz are maintained.

45. In addition, NTIA recommends that the list of internationally permitted operations (*i.e.,* distress and calling communications) on 156.8 MHz be expanded by also listing urgency and safety. Specifically, NTIA notes that, consistent with Article 53 of the ITU *Radio Regulations,* urgency and safety communications are permitted in the 75-kilohertz band centered at 156.8 MHz, and thus, these uses should also be listed in the parenthetical restrictions on transmissions to this MMS allocation.

46. Because the 75-kilohertz band centered on 156.8 MHz has been allocated to the MMS on a primary, exclusive, and worldwide basis for distress and calling purposes since 1979, the Commission concludes that further aligning the U.S. Table with the International Table would be consistent with the Commission's established policy. A search of the Commission's licensing database showed that the 75-kilohertz band centered on 156.8 MHz is licensed to coast and ship stations, except for stations operating under four call signs, which are authorized on an unprotected and non-interference basis. Since the 75-kilohertz band at 156.8 MHz is not encumbered with other allocated services, displaying that band in the U.S. Table would be equivalent to our current footnote allocation. Thus, the Commission finds it would be appropriate to simplify the U.S. Table by mirroring the international table. Accordingly, the Commission reflects in the U.S. Table the primary MMS allocation in the band 156.7625–156.8375 MHz, which is restricted to distress, urgency, safety, and calling transmissions. Consequently, the

Commission remove US107 from § 2.106 of the rules.

b. Automatic Identification System

47. In September, 2008, the Commission adopted "additional measures for domestic implementation of Automatic Identification Systems (AIS), an advanced marine vessel tracking and navigation technology that can significantly enhance our Nation's homeland security as well as maritime safety." With regard to that *Order,* the most significant decisions were to: "Designate maritime VHF Channel 87B for exclusive AIS use throughout the Nation;" and "determine that only Federal Government (Federal) entities should have authority to operate AIS base stations." In addition, in accordance with the Maritime Transportation Security Act, the Commission specified that the United States Coast Guard (USCG) regulates AIS carriage requirements for non-Federal ships.

48. At the request of NTIA, the Commission highlights the two AIS frequencies—161.975 MHz (AIS 1) and 162.025 MHz (AIS 2)—by directly reflecting in the U.S. Table the MMS allocation for these frequencies and the restrictions on their use contained in US399. In addition, the Commission simplifies and clarifies US399 by consolidating part of the grandfathering text in an introductory phrase and by adding paragraph labeling for each of the grandfathering cases. Consistent with our new footnote numbering policy discussed, the Commission also renumbers US399 in frequency order as US228. As a result, the U.S. Table now displays two 25-kilohertz bands centered on AIS 1 and AIS 2, respectively, (*i.e.,* 161.9625–161.9875 and 162.0125–162.0375 MHz), in combined Federal/non-Federal cells within the U.S. Table with the entry "MARITIME MOBILE (AIS) US228."

Radiolocation Band Display Changes

49. In this section, the Commission simplifies and corrects the display of the band 216–225 MHz in the U.S. Table. As background, in the Region 2 Table, the band 216–225 MHz is allocated, *inter alia,* to the radiolocation service (RLS) on a secondary basis and RR 5.241 further restricts the use of this allocation to RLS stations that were authorized prior to January 1, 1990.

50. *US229.* During the coordination process, NTIA advised us that, because RR 5.241 prohibits any new RLS stations from being authorized in the band 216–225 MHz, Federal RLS use of that band is necessarily limited to those stations authorized pursuant to US229 and to air-search radars aboard USCG vessels that transmit on 220 MHz with a necessary bandwidth of 70 kHz (i.e., these emissions occupy the sub-band 219.965–220.035 MHz). Therefore, NTIA requests that the Commission remove the secondary Federal radiolocation service allocation in the bands 216–217 MHz and 220–225 MHz from the Federal Table and list the 70 kilohertz band that is used by the USCG in US229. As a result of removing the RLS allocation entry from the Federal Table, the Federal and non-Federal Tables are exactly the same for the band 220–222 MHz. Accordingly, the Commission listed the allocations and footnotes in this band once in a combined U.S. Table entry. The Commission also updated and revises US229 for clarity, consistency, and simplicity. Because of the revision to US229, the Commission renumbers this footnote with a number—US241—that is based on the related international footnote RR 5.241.

Fixed and Land Mobile Bands Display Changes

51. *US335.* In order to improve the readability of US335, which sub-divides the band 220–222 MHz into seven paired bands (one Federal exclusive band, four non-Federal exclusive bands, and two shared bands), the Commission places the bands in a table, list the bands in frequency order, and add four headings (Use, Base Transmit, Mobile Transmit, and Channel Nos.). The Commission also reproduced certain information from §§ 90.715, 90.720, and 90.719 in new paragraphs (a), (c), and (d), respectively, in order to provide a basic understanding of the national plan for 220 MHz and to make it clear that the use of 10 shared channels (Channels 161–170) is restricted to public safety/mutual aid communications and that the use of 5 shared channels (Channels 181–185) is restricted to emergency medical communications. In addition, the Commission moved the existing provision in US335 for temporary fixed geophysical telemetry operations to paragraph (b). Because of the revision to US335, the Commission renumbers this footnote in frequency order as US242.

F. Updates to U.S. Table and Domestic Footnotes for UHF Bands (300 to 3000 MHz)

Non-Federal Use of Military Radar Band 420–450 MHz

52. The Commission addressed several issues related to the band 420–450 MHz, which is allocated to the Federal radiolocation service on a primary basis. Under G2, NTIA has restricted the use of this allocation to the military services, except as provided for in US217 and G129. Although the band 420–450 MHz (70-centimeter (cm) band) is allocated to the amateur service on a secondary basis, the band 420–430 MHz is not allocated to the amateur service North of Line A. Amateur stations may transmit in the 70-cm band at full power (*i.e.,* transmitter power may not exceed 1.5 kW PEP), except in the areas specified in US7, where transmitter power is generally restricted to 50 W PEP. NTIA has informed us that, due to the light Federal use of the authority provided for in US217, this footnote should be restricted to non-Federal use only. Specifically, NTIA determined that non-military use of the band 420–450 MHz is sufficiently infrequent that it prefers to manage this military band by accepting waivers of G2 from non-military users. As a consequence of its decision, NTIA requested that the Commission revise G2 by removing the reference to US217.

53. *Non-Federal Radiolocation.* At the request of NTIA, the Commission simplifies US217 by restricting its applicability to non-Federal use. In addition, in order to simplify the rules and ensure that geographic areas listed in this footnote are consistent with those listed in US7 (which we combine with NG135 and renumber as US270), the Commission removed the geographic areas currently listed in US217 and replaced them with a cross reference to paragraph (a) of the consolidated footnote US270. For ease of use, the Commission also renumbered US217 as US269 so that the referenced geographic areas can be easily found in adjacent US270. In order to accomplish this advantageous renumbering, the Commission added the current text of US269, which urges fixed and mobile except aeronautical mobile licensees in the 2655–2690 MHz band to coordinate their systems, along with the secondary allocation status of the radio astronomy service in the 2655–2690 MHz band that is shown in the U.S. Table, to US311, and renumbered US311 as US385.

54. *70-cm Amateur Radio Service Band.* In order to consolidate all of the restrictions on amateur radio service operations in the band 420–450 MHz in one footnote, the Commission combined the text from US7 and NG135 into a single U.S. footnote, which is renumbered as US270. The Commission chose to number the consolidated footnote as US270 because RR 5.270 contains the secondary amateur service allocation for the bands 420–430 and 440–450 MHz in the United States and three other countries.

Two-Way Air-Ground Public Radiotelephone Service

55. In preparing this Order, the Commission discovered that the reference to NG12 in the band 456–460 MHz is missing from the non-Federal Table. Therefore, the Commission takes this opportunity to correct this omission by reinserting the reference to NG12 in the band 456–460 MHz in the non-Federal Table.

MED Channels

56. *Medical Radiocommunication Systems.* In order to properly reflect the channeling plan used by medical radiocommunication systems, which consists of 40 channel pairs and is codified in paragraphs (d)(65) and (d)(66) of § 90.20 (commonly known as the MED channels), the Commission revises US216 by adjusting the bandwidths of the two bands that are specified for use by medical radiocommunication systems. Specifically, it replaces the bands 462.94688–463.19688 MHz and 467.94688–468.19688 MHz in US216 with the bands 462.94–463.19675 MHz and 467.94–468.19675 MHz, respectively. Thus, the Commission renumbers US216 as US73.

Television Bands

57. *NG128 and NG142.* NG128 and NG142 authorize ancillary uses of TV Channels 2–36 and 38–69. Specifically, NG128 authorizes, *inter alia,* TV broadcast licensees or permittees to use subcarriers on a secondary basis for both broadcast and non-broadcast purposes. NG142 states that TV broadcast stations may use a portion of the television vertical blanking interval for the transmission of telecommunications signals, on the condition that harmful interference will not be caused to the reception of primary services, and that such telecommunications services must accept any interference caused by primary services operating in these bands. The bands 698–763, 775–793, and 805–806 MHz—which are allocated to the fixed, mobile, and broadcasting services—are regulated under part 27 and have been auctioned for Commercial Mobile Radio Service (CMRS) use. To the extent that these part 27 licensees choose to implement the uses specified in NG128 and NG142, they may do so under their primary FS allocation. Accordingly, the Commission removed the band 698–806 MHz from NG128 and NG142. For clarity, it also amended NG128 by revising "licensees or permittees" (three instances) to read "licensees and permittees." Because the Commission revised NG128 and NG142, it renumbers these footnotes in frequency order as NG5 and NG14, respectively.

Public Safety Bands

58. The Commission reflects the availability of certain public safety bands in the Allocation Table. This action is taken in order to assist both non-Federal applicants and sponsored Federal agencies, and to facilitate the rapid conclusion of the 800 MHz-band transition.

59. Section 2.103(b) of the Commission's rules states that Federal stations may be authorized to use frequencies in specified 700 MHz, 800 MHz, and 4.9 GHz Bands that are allocated for exclusive non-Federal use if the Commission finds that such use is necessary and Federal operations are in accordance with the Commission's rules governing the service to which the frequencies involved are allocated. In 1998, the Commission concluded that Federal entities are ineligible for Commission licensing in the 700 MHz Public Safety Band, but found that "if a state or local governmental licensee desires for a Federal public safety entity to receive access to some or all of its licensed frequencies, the licensee can join in the request, under the NTIA/FCC process, to authorize Federal use of its non-government frequencies for noncommercial public safety services."

60. In July 2004, the Commission adopted the *800 MHz R&O,* which reconfigured the 800 MHz band for private radio services that operate in the paired bands 806–824/851–869 MHz. In general, the *800 MHz R&O* moved a dedicated public safety band (generally known as the National Public Safety Planning Advisory Committee (NPSPAC) Band) from 821–824/866–869 MHz to 806–809/851–854 MHz; and established a contiguous block of paired spectrum for Enhanced Specialized Mobile Radio (ESMR) use at 817–824/862–869 MHz, which the Commission licensed to Nextel (now Sprint Nextel).

61. Accordingly, the Commission revises how the part 90 cross references in the 700 MHz, NPSPAC, and 4.9 GHz bands are displayed in column six of the Allocation Table in order to reflect that the Public Safety Land Mobile Radio Service (PSLMRS) is the specific Private Land Mobile Radio Service that is designated to use these bands and that part 90 specifies certain portions of these bands for PSLMRS operations. In order to better assist Federal agencies, we also highlight the 700 MHz and NPSPAC bands in the Federal Table by subdividing the band 698–890 MHz into nine smaller bands (698–763, 763–775, 775–793, 793–805, 805–806, 806–809, 809–851, 851–854, and 854–890 MHz). The Commission declines to add a U.S. footnote that would point to § 2.102 at this time.

U.S. Footnote Changes in the Band 1390–1432 MHz

62. The Commission makes several changes to the bands that comprise 1390–1432 MHz. First, at the request of NTIA, it updates US351 by removing the expired authority for Federal stations to operate in the band 1390–1400 MHz on a fully protected basis at 17 sites. In doing so, the Commission notes that the text of updated US351 and the existing text of US352 are essentially identical. Therefore, it combined the explicit authority for Federal NIB operations to continue in the band 1390–1400 MHz (US351) and in the band 1427–1432 MHz (US352) into a single U.S. footnote (US37). The Commission also noted that Federal agencies may, without further authority from NTIA, purchase and operate Wireless Medical Telemetry Service (WMTS) devices that have been certified by the Commission. Accordingly, the Commission updates the parenthetical exception text to better reflect the Commission's decision that although the bands 1390–1400 and 1427–1432 MHz were transferred for non-Federal exclusive use, Federal hospitals have access to the WMTS bands on a primary basis as end users.

63. In the *WRC–03 Omnibus R&O,* the Commission inadvertently removed the reference to US74 from the band 1400–1427 MHz in the U.S. Table. Therefore, it takes this opportunity to correct this error by reinserting the reference to US74 in the band 1400–1427 MHz.

G. Updates to U.S. Table and Domestic Footnotes for SHF Bands (3 to 30 GHz)

GOES Footnote

64. Because the band 7190–7235 MHz is allocated for exclusive Federal use, in support of the Department of Commerce's Geostationary Operational Environmental Satellites (GOES), NTIA added a new Federal footnote—G134—to the *NTIA Manual* in its September 2008 revision. Because Federal footnotes denote stipulations applicable only to Federal operations, and the Federal Table is included in the Allocation Table for informational purposes only, adding G134 to the Federal Table is a non-substantive, editorial action. Therefore, the Commission added G134 to the Federal Table.

Ku-Band Fixed-Satellite Service

65. In the United States, the band 11.7–12.2 GHz is allocated to the non-Federal fixed-satellite service (FSS) for space-to-Earth transmissions (downlinks). The Commission observed that NG145 and RR 5.485 contain the exact same text, except that RR 5.485 opens with the phrase "In Region 2". The Commission's rules specify that where an international footnote is applicable, without modification, to non-Federal operations, it is placed in the non-Federal Table. Accordingly, we correct the band 11.7–12.2 GHz in the non-Federal Table by replacing NG145 with RR 5.485.

66. The Commission also notes that, in the Region 2 Table, RR 5.485 is shown at the bottom of the cell in the bands 11.7–12.1 and 12.1–12.2 GHz. Consistent with the Commission's current display of NG145, however, it places RR 5.485 to the right of the non-Federal FSS downlink allocation because this international footnote provides the licensees of FSS space stations with additional flexibility, but does not provide for a separate allocation, *i.e.,* the Commission would not authorize a space station in the broadcasting-satellite service under this international footnote. Also, consistent with the Region 2 Table, the Commission corrects a display error by moving the reference to 5.488 from the bottom of the cell in the band 11.7–12.2 GHz to the right of the non-Federal FSS downlink allocation.

H. Updates to Other Rule Sections

Adding Inter-Satellite Service Bands to Part 25

67. The Commission makes a conforming modification to its part 25 satellite rules. On December 19, 2000, the Commission realigned the allocations in the bands 50.2–50.4 and 51.4–71 GHz. As part of this realignment, the Commission provided separate inter-satellite service (ISS) allocations for Federal agencies and for non-Federal (commercial) licensees by allocating the band 65–71 GHz to the non-Federal ISS, deleting the non-Federal ISS allocation from the bands 56.9–57 and 59–64 GHz, and allocating the band 64–65 GHz to the Federal ISS. The remaining ISS allocations in this frequency range (54.25–56.9 and 57–58.2 GHz) are available for both Federal and non-Federal use. Note that the Commission adopted this plan at the request of NTIA, industry commenters supported the plan, and that §§ 25.202(b) and 25.279 of the Commission's rules already permit the use of these ISS allocations. Accordingly, the Commission adds the bands 54.25–56.9, 57–58.2, and 65–71 GHz to the list of available ISS frequencies set forth in § 25.202(a)(5) to conform to the Commission's 2000 decision. Consequently, the Commission also adds a cross reference to these rules in the FCC rule part cross references portion of the Allocation Table, *i.e.,* "Satellite Communications (25)."

Revisions of Parts 1 and 2

68. The Commission revised §§ 1.924(b)(3) and (e)(1), 2.1(c), 2.100, 2.101(b), 2.104(c)(2), and 2.201(b). In addition, it makes various other minor revisions to § 2.106. These revisions are generally for footnote placement, simplification, consistency, or updating purposes. In addition, on January 12, 2010, NTIA informed the Commission that G124 had been deleted from the *NTIA Manual* and requested that the Commission update its Allocation Table to reflect this action. As requested, the Commission removed the reference to G124 from § 2.106 in this Order. The Commission also corrects a typographical error in US378. Specifically, in the middle of the table in US378, above the bottom seven listed locations, the Commission inserted the heading "50 km radius of operation centered on." The Commission shows updated cross references in the FCC Rule Part Cross References in Table A6 in Appendix A of the released Order.

Administrative Procedure Act Requirements

69. The Commission amends parts 1, 2, 15, 25, 73, and 90 of the Commission's rules herein by incorporating non-substantive, editorial revisions only. Therefore, there is good cause for not employing the notice and comment procedure in this case, and for making the effective date of these amendments the date of publication in the **Federal Register**. Specifically, the Commission finds that the normal procedures for notice and comment and for publication as required under section 553 of the Administrative Procedure Act would be impracticable, unnecessary, or contrary to the public interest. *See* 5 U.S.C. 553(b)(3)(B); *Kessler* v. *FCC,* 326 F.2d 673 (DC Cir. 1963).

Ordering Clause

70. Parts 1, 2, 15, 25, 73, and 90 of the Commission's rules, 47 CFR *are amended* October 13, 2010. This action is taken pursuant to authority found in § 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303, and in § 0.11, 0.31, 0.231(b) and 0.241 of the Commission's rules, 47 CFR 0.11, 0.31, 0.231(b) and 0.241.

71. The Commission will not send a copy of this Order, pursuant to the Congressional Review Act. The Order does not change any rules; it makes non-substantive, editorial revisions to the Table of Frequency Allocation and to various other Commission rules.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements.

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 15

Radio.

47 CFR Part 25

Communications equipment, Radio.

47 CFR Part 73

Communications equipment, Radio.

47 CFR Part 90

Radio.

Federal Communications Commission.

Ira Keltz,

Deputy Chief, Office of Engineering and Technology.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2, 15, 25, 73, and 90 as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

■ 2. Section 1.924 is amended by revising paragraph (b)(3) and by revising the last entry under Rectangle 3 in the Denver, CO Area in paragraph (e)(1) to read as follows:

§ 1.924 Quiet zones.

* * * * *

(b) * * *

(3) Applicants concerned are urged to communicate with the Radio Frequency Manager, Department of Commerce, 325 Broadway, Boulder, CO 80305; *Telephone:* 303–497–4619, *Fax:* 303–497–6982, *E-mail: frequencymanager@its.bldrdoc.gov,* in advance of filing their applications with the Commission.

* * * * *

(e) * * *

(1) * * *

Denver, CO Area

* * * * *

Rectangle 3:

* * * * *

107°15′00″ W. Long. on the west

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 4. Section 2.1 is amended by revising the definition of "Occupied Bandwidth" in paragraph (c) to read as follows:

§ 2.1 Terms and definitions.

* * * * *

(c) * * *

* * * * *

Occupied Bandwidth. The width of a frequency band such that, below the lower and above the upper frequency limits, the mean powers emitted are each equal to a specified percentage β/2 of the total mean power of a given emission.

Note: Unless otherwise specified in an ITU–R Recommendation for the appropriate class of emission, the value of β/2 should be taken as 0.5%. (RR).

* * * * *

■ 5. Section 2.100 is revised to read as follows:

§ 2.100 International regulations in force.

The ITU *Radio Regulations,* Edition of 2004, have been incorporated to the extent practicable in Subparts A and B of this part, except that the International Table within § 2.106 has been updated to reflect the ITU *Radio Regulations,* Edition of 2008.

■ 6. Section 2.101 is amended by revising paragraph (b) introductory text to read as follows.

§ 2.101 Frequency and wavelength bands.

* * * * *

(b) However, where adherence to these provisions would introduce serious difficulties, for example in connection with the notification and registration of frequencies, the lists of frequencies and related matters, reasonable departures may be made.[1]

* * * * *

■ 7. Section 2.104 is amended by revising paragraph (c)(2) to read as follows:

§ 2.104 International Table of Frequency Allocations.

* * * * *

(c) * * *

(2) The "European Broadcasting Area" is bounded on the west by the western boundary of Region 1, on the east by the meridian 40° East of Greenwich and on the south by the parallel 30° North so as to include the northern part of Saudi Arabia and that part of those countries bordering the Mediterranean within these limits. In addition, Armenia, Azerbaijan, Georgia and those parts of the territories of Iraq, Jordan, Syrian Arab Republic, Turkey and Ukraine lying outside the above limits are included in the European Broadcasting Area.

* * * * *

■ 8. Section 2.105 is amended by revising the first sentence of paragraphs (d)(5)(i), (ii), (iii), and (iv) to read as follows:

§ 2.105 United States Table of Frequency Allocations.

* * * * *

(d) * * *

(5) * * *

(i) Any footnote number consisting of "5." followed by one or more digits,[7] e.g., 5.53, denotes an international footnote. * * *

(ii) Any footnote consisting of the letters "US" followed by one or more digits,[7] e.g., US7, denotes a stipulation affecting both Federal and non-Federal operations. * * *

(iii) Any footnote consisting of the letters "NG" followed by one or more digits,[7] e.g., NG2, denotes a stipulation applicable only to non-Federal operations. * * *

(iv) Any footnote consisting of the letters "G" followed by one or more digits,[7] e.g., G2, denotes a stipulation applicable only to Federal operations. * * *

* * * * *

■ 9. Section 2.106, the Table of Frequency Allocations, is amended as follows:

■ a. The table is revised.

■ b. The list of International Footnotes is revised.

■ c. In the list of United States (US) Footnotes, footnotes US2, US22, US37, US73, US136, US142, US228, US241, US242, US270, US385, US444, US444A, and US519 are added; footnotes US74, US117, US226, US269, US298, and US378 are revised; and footnotes US7, US107, US216, US217, US229, US294, US311, US335, US351, US352, US366, US367, US394, US395, US396, and US399 are removed.

■ d. In the list of Non-Federal Government (NG) Footnotes, footnotes NG5, NG7, and NG14 are added; and footnotes NG19, NG128, NG135, NG142, and NG145 are removed.

■ e. In the list of Federal Government (G) Footnotes, footnote G134 is added; footnote G2 is revised; and footnote G124 is removed.

§ 2.106 Table of Frequency Allocations.

The revisions and additions read as follows:

BILLING CODE 6712–01–P

[1] In the application of the ITU *Radio Regulations,* the Radiocommunication Bureau uses the following units:

kHz: For frequencies up to 28 000 kHz inclusive;

MHz: For frequencies above 28 000 kHz up to 10 500 MHz inclusive; and

GHz: For frequencies above 10 500 MHz.

[7] In some cases, a letter, or letters, may be appended to the digit(s) of a footnote number in order to preserve the sequential order.

Table of Frequency Allocations — 0-160 kHz (VLF/LF) — Page 1

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
Below 9 (Not Allocated) 5.53 5.54			Below 9 (Not Allocated) 5.53 5.54		
9-14 RADIONAVIGATION			9-14 RADIONAVIGATION US18 US2		
14-19.95 FIXED MARITIME MOBILE 5.57 5.55 5.56			14-19.95 FIXED MARITIME MOBILE 5.57 US2	14-19.95 Fixed US2	
19.95-20.05 STANDARD FREQUENCY AND TIME SIGNAL (20 kHz)			19.95-20.05 STANDARD FREQUENCY AND TIME SIGNAL (20 kHz) US2		
20.05-70 FIXED MARITIME MOBILE 5.57			20.05-59 FIXED MARITIME MOBILE 5.57 US2	20.05-59 FIXED US2	
			59-61 STANDARD FREQUENCY AND TIME SIGNAL (60 kHz) US2		
5.56 5.58			61-70 FIXED MARITIME MOBILE 5.57 US2	61-70 FIXED US2	
70-72 RADIONAVIGATION 5.60	70-90 FIXED MARITIME MOBILE 5.57 MARITIME RADIONAVIGATION 5.60 Radiolocation	70-72 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.57 5.59	70-90 FIXED MARITIME MOBILE 5.57 Radiolocation	70-90 FIXED Radiolocation	Private Land Mobile (90)
72-84 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.60 5.56		72-84 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.60			
84-86 RADIONAVIGATION 5.60		84-86 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.57 5.59			
86-90 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.56	5.61	86-90 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.60	US2	US2	

90-110 RADIONAVIGATION 5.62 Fixed 5.64			90-110 RADIONAVIGATION 5.62 US18 US2 US104	Aviation (87) Private Land Mobile (90)
110-112 FIXED MARITIME MOBILE RADIONAVIGATION 5.64	110-130 FIXED MARITIME MOBILE MARITIME RADIONAVIGATION 5.60 Radiolocation	110-112 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64	110-130 FIXED MARITIME MOBILE Radiolocation	Private Land Mobile (90)
112-115 RADIONAVIGATION 5.60		112-117.6 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.64 5.65		
115-117.6 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.64 5.66				
117.6-126 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64		117.6-126 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64		
126-129 RADIONAVIGATION 5.60		126-129 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.64 5.65		
129-130 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64	5.61 5.64	129-130 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64	5.64 US2	
130-135.7 FIXED MARITIME MOBILE 5.64 5.67	130-135.7 FIXED MARITIME MOBILE 5.64	130-135.7 FIXED MARITIME MOBILE RADIONAVIGATION 5.64	130-160 FIXED MARITIME MOBILE	Maritime (80)
135.7-137.8 FIXED MARITIME MOBILE Amateur 5.67A 5.64 5.67 5.67B	135.7-137.8 FIXED MARITIME MOBILE Amateur 5.67A 5.64	135.7-137.8 FIXED MARITIME MOBILE RADIONAVIGATION Amateur 5.67A 5.64 5.67B		
137.8-148.5 FIXED MARITIME MOBILE 5.64 5.67	137.8-160 FIXED MARITIME MOBILE 5.64	137.8-160 FIXED MARITIME MOBILE RADIONAVIGATION 5.64	5.64 US2	
148.5-255 BROADCASTING 5.68 5.69 5.70				

Table of Frequency Allocations			160-1800 kHz (LF/MF)		Page 3
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
(See previous page)	160-190 FIXED	160-190 FIXED Aeronautical radionavigation	160-190 FIXED MARITIME MOBIILE US2	160-190 FIXED US2	
	190-200 AERONAUTICAL RADIONAVIGATION		190-200 AERONAUTICAL RADIONAVIGATION US18 US2		Aviation (87)
255-283.5 BROADCASTING AERONAUTICAL RADIONAVIGATION 5.70 5.71	200-275 AERONAUTICAL RADIONAVIGATION Aeronautical mobile	200-285 AERONAUTICAL RADIONAVIGATION Aeronautical mobile	200-275 AERONAUTICAL RADIONAVIGATION US18 Aeronautical mobile US2		
283.5-315 AERONAUTICAL RADIONAVIGATION MARITIME RADIONAVIGATION (radiobeacons) 5.73	275-285 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Maritime radionavigation (radiobeacons)		275-285 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Maritime radionavigation (radiobeacons) US2 US18		
5.72 5.74	285-315 AERONAUTICAL RADIONAVIGATION MARITIME RADIONAVIGATION (radiobeacons) 5.73		285-325 MARITIME RADIONAVIGATION (radiobeacons) 5.73 Aeronautical radionavigation (radiobeacons)		
315-325 AERONAUTICAL RADIONAVIGATION Maritime radionavigation (radiobeacons) 5.73 5.72 5.75	315-325 MARITIME RADIONAVIGATION (radiobeacons) 5.73 Aeronautical radionavigation	315-325 AERONAUTICAL RADIONAVIGATION MARITIME RADIONAVIGATION (radiobeacons) 5.73	US2 US18 US364		
325-405 AERONAUTICAL RADIONAVIGATION	325-335 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Maritime radionavigation (radiobeacons)	325-405 AERONAUTICAL RADIONAVIGATION Aeronautical mobile	325-335 AERONAUTICAL RADIONAVIGATION (radiobeacons) Aeronautical mobile Maritime radionavigation (radiobeacons) US2 US18		Aviation (87)
5.72	335-405 AERONAUTICAL RADIONAVIGATION Aeronautical mobile		335-405 AERONAUTICAL RADIONAVIGATION (radiobeacons) US18 Aeronautical mobile US2		
405-415 RADIONAVIGATION 5.76 5.72	405-415 RADIONAVIGATION 5.76 Aeronautical mobile		405-415 RADIONAVIGATION 5.76 US18 Aeronautical mobile US2		Maritime (80) Aviation (87)

415-435 MARITIME MOBILE 5.79 AERONAUTICAL RADIONAVIGATION 5.72	415-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.80		415-435 MARITIME MOBILE 5.79 AERONAUTICAL RADIONAVIGATION US2		
435-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.72 5.82	5.77 5.78 5.82		435-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.82 US2 US231	435-495 MARITIME MOBILE 5.79 5.79A 5.82 US2 US231	
495-505 MOBILE 5.82A 5.82B			495-505 MOBILE (distress and calling)		
505-526.5 MARITIME MOBILE 5.79 5.79A 5.84 AERONAUTICAL RADIONAVIGATION	505-510 MARITIME MOBILE 5.79	505-526.5 MARITIME MOBILE 5.79 5.79A 5.84 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Land mobile	505-510 MARITIME MOBILE 5.79		Maritime (80)
	510-525 MOBILE 5.79A 5.84 AERONAUTICAL RADIONAVIGATION		510-525 MARITIME MOBILE (ships only) 5.79A 5.84 AERONAUTICAL RADIONAVIGATION (radiobeacons) US18 US14 US225		Maritime (80) Aviation (87)
5.72 526.5-1606.5 BROADCASTING	525-535 BROADCASTING 5.86 AERONAUTICAL RADIONAVIGATION	526.5-535 BROADCASTING Mobile 5.88	525-535 MOBILE US221 AERONAUTICAL RADIONAVIGATION (radiobeacons) US18 US239		Aviation (87) Private Land Mobile (90)
	535-1605 BROADCASTING	535-1606.5 BROADCASTING	535-1605	535-1605 BROADCASTING NG1 NG5	Radio Broadcast (AM)(73) Private Land Mobile (90)
5.87 5.87A 1606.5-1625 FIXED MARITIME MOBILE 5.90 LAND MOBILE 5.92	1605-1625 BROADCASTING 5.89 5.90	1606.5-1800 FIXED MOBILE RADIOLOCATION RADIONAVIGATION	1605-1615 MOBILE US221 G127 1615-1705 US299	1605-1705 BROADCASTING 5.89 US299 NG1 NG5	Radio Broadcast (AM)(73) Alaska Fixed (80) Private Land Mobile (90)
1625-1635 RADIOLOCATION 5.93 1635-1800 FIXED MARITIME MOBILE 5.90 LAND MOBILE	1625-1705 FIXED MOBILE BROADCASTING 5.89 Radiolocation 5.90				
5.92 5.96	1705-1800 FIXED MOBILE RADIOLOCATION AERONAUTICAL RADIONAVIGATION	5.91	1705-1800 FIXED MOBILE RADIOLOCATION US240		Alaska Fixed (80) Private Land Mobile (90)

Table of Frequency Allocations			1800-3025 kHz (MF/HF)		Page 5
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
1800-1810 RADIOLOCATION 5.93	1800-1850 AMATEUR	1800-2000 AMATEUR FIXED MOBILE except aeronautical mobile RADIONAVIGATION Radiolocation	1800-1900	1800-1900 AMATEUR	Amateur Radio (97)
1810-1850 AMATEUR 5.98 5.99 5.100 5.101					
1850-2000 FIXED MOBILE except aeronautical mobile 5.92 5.96 5.103	1850-2000 AMATEUR FIXED MOBILE except aeronautical mobile RADIOLOCATION RADIONAVIGATION 5.102	5.97	1900-2000 RADIOLOCATION US290		Private Land Mobile (90) Amateur Radio (97)
2000-2025 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103	2000-2065 FIXED MOBILE		2000-2065 FIXED MOBILE US340	2000-2065 MARITIME MOBILE US340 NG7	Maritime (80) Private Land Mobile (90)
2025-2045 FIXED MOBILE except aeronautical mobile (R) Meteorological aids 5.104 5.92 5.103					
2045-2160 FIXED MARITIME MOBILE LAND MOBILE 5.92	2065-2107 MARITIME MOBILE 5.105 5.106		2065-2107 MARITIME MOBILE 5.105 US296 US340		Maritime (80)
2160-2170 RADIOLOCATION 5.93 5.107	2107-2170 FIXED MOBILE		2107-2170 FIXED MOBILE US340	2107-2170 FIXED MOBILE except aeronautical mobile US340 NG7	Maritime (80) Private Land Mobile (90)
2170-2173.5 MARITIME MOBILE			2170-2173.5 MARITIME MOBILE (telephony) US340	2170-2173.5 MARITIME MOBILE US340	Maritime (80)

2173.5-2190.5 MOBILE (distress and calling) 5.108 5.109 5.110 5.111		2173.5-2190.5 MOBILE (distress and calling) 5.108 5.109 5.110 5.111 US279 US340		Maritime (80) Aviation (87)
2190.5-2194 MARITIME MOBILE		2190.5-2194 MARITIME MOBILE (telephony) US340	2190.5-2194 MARITIME MOBILE US340	Maritime (80)
2194-2300 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103 5.112	2194-2300 FIXED MOBILE 5.112	2194-2495 FIXED MOBILE US22 US340	2194-2495 FIXED MOBILE except aeronautical mobile US22 US340 NG7	Maritime (80) Private Land Mobile (90)
2300-2498 FIXED MOBILE except aeronautical mobile (R) BROADCASTING 5.113 5.103	2300-2495 FIXED MOBILE BROADCASTING 5.113			
2498-2501 STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz)	2495-2501 STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz)	2495-2505 STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz) US1 US340		
2501-2502 STANDARD FREQUENCY AND TIME SIGNAL Space research				
2502-2625 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103 5.114	2502-2505 STANDARD FREQUENCY AND TIME SIGNAL			
2625-2650 MARITIME MOBILE MARITIME RADIONAVIGATION 5.92	2505-2850 FIXED MOBILE	2505-2850 FIXED MOBILE US285 US22 US340	2505-2850 FIXED MOBILE except aeronautical mobile US285 US22 US340	Maritime (80) Aviation (87) Private Land Mobile (90)
2650-2850 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103				
2850-3025 AERONAUTICAL MOBILE (R) 5.111 5.115		2850-3025 AERONAUTICAL MOBILE (R) 5.111 5.115 US283 US340		Aviation (87) Page 6

Table of Frequency Allocations			3.025-5.68 MHz (HF)		Page 7
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
3.025-3.155 AERONAUTICAL MOBILE (OR)			3.025-3.155 AERONAUTICAL MOBILE (OR) US340		
3.155-3.2 FIXED MOBILE except aeronautical mobile (R) 5.116 5.117			3.155-3.23 FIXED MOBILE except aeronautical mobile (R)		Maritime (80) Private Land Mobile (90)
3.2-3.23 FIXED MOBILE except aeronautical mobile (R) BROADCASTING 5.113 5.116			US22 US340		
3.23-3.4 FIXED MOBILE except aeronautical mobile BROADCASTING 5.113 5.116 5.118			3.23-3.4 FIXED MOBILE except aeronautical mobile Radiolocation US340		Maritime (80) Aviation (87) Private Land Mobile (90)
3.4-3.5 AERONAUTICAL MOBILE (R)			3.4-3.5 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
3.5-3.8 AMATEUR FIXED MOBILE except aeronautical mobile 5.92	3.5-3.75 AMATEUR 5.119	3.5-3.9 AMATEUR FIXED MOBILE	3.5-4	3.5-4 AMATEUR	Amateur Radio (97)
3.8-3.9 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE	3.75-4 AMATEUR FIXED MOBILE except aeronautical mobile (R)				
3.9-3.95 AERONAUTICAL MOBILE (OR) 5.123		3.9-3.95 AERONAUTICAL MOBILE BROADCASTING			
3.95-4 FIXED BROADCASTING	5.122 5.125	3.95-4 FIXED BROADCASTING 5.126	US340	US340	
4-4.063 FIXED MARITIME MOBILE 5.127 5.126			4-4.063 FIXED MARITIME MOBILE US340		Maritime (80)

4.063-4.438 MARITIME MOBILE 5.79A 5.109 5.110 5.130 5.131 5.132 5.128			4.063-4.438 MARITIME MOBILE 5.79A 5.109 5.110 5.130 5.131 5.132 US82 US296 US340		Maritime (80) Aviation (87)
4.438-4.65 FIXED MOBILE except aeronautical mobile (R)		4.438-4.65 FIXED MOBILE except aeronautical mobile	4.438-4.65 FIXED MOBILE except aeronautical mobile (R) US22 US340		Maritime (80) Aviation (87) Private Land Mobile (90)
4.65-4.7 AERONAUTICAL MOBILE (R)			4.65-4.7 AERONAUTICAL MOBILE (R) US282 US283 US340		Aviation (87)
4.7-4.75 AERONAUTICAL MOBILE (OR)			4.7-4.75 AERONAUTICAL MOBILE (OR) US340		
4.75-4.85 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE BROADCASTING 5.113	4.75-4.85 FIXED MOBILE except aeronautical mobile (R) BROADCASTING 5.113	4.75-4.85 FIXED BROADCASTING 5.113 Land mobile	4.75-4.85 FIXED MOBILE except aeronautical mobile (R) US340		Maritime (80) Private Land Mobile (90)
4.85-4.995 FIXED LAND MOBILE BROADCASTING 5.113			4.85-4.995 FIXED MOBILE US340	4.85-4.995 FIXED US340	Aviation (87) Private Land Mobile (90)
4.995-5.003 STANDARD FREQUENCY AND TIME SIGNAL (5 MHz)			4.995-5.005 STANDARD FREQUENCY AND TIME SIGNAL (5 MHz) US1 US340		
5.003-5.005 STANDARD FREQUENCY AND TIME SIGNAL Space research					
5.005-5.06 FIXED BROADCASTING 5.113			5.005-5.06 FIXED US22 US340		Aviation (87) Private Land Mobile (90)
5.06-5.25 FIXED Mobile except aeronautical mobile 5.133			5.06-5.45 FIXED US22 Mobile except aeronautical mobile US212 US340 US381		Maritime (80) Aviation (87) Private Land Mobile (90) Amateur Radio (97)
5.25-5.45 FIXED MOBILE except aeronautical mobile					
5.45-5.48 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE	5.45-5.48 AERONAUTICAL MOBILE (R)	5.45-5.48 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE	5.45-5.68 AERONAUTICAL MOBILE (R) 5.111 5.115 US283 US340		Aviation (87)
5.48-5.68 AERONAUTICAL MOBILE (R) 5.111 5.115					

Table of Frequency Allocations — 5.68-10.005 MHz (HF) — Page 9

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
5.68-5.73 AERONAUTICAL MOBILE (OR) 5.111 5.115			5.68-5.73 AERONAUTICAL MOBILE (OR) 5.111 5.115 US340		
5.73-5.9 FIXED LAND MOBILE	5.73-5.9 FIXED MOBILE except aeronautical mobile (R)	5.73-5.9 FIXED Mobile except aeronautical mobile (R)	5.73-5.9 FIXED MOBILE except aeronautical mobile (R) US340		Maritime (80) Aviation (87) Private Land Mobile (90)
5.9-5.95 BROADCASTING 5.134 5.136			5.9-6.2 BROADCASTING 5.134 US136 US340		International Broadcast Stations (73F)
5.95-6.2 BROADCASTING					
6.2-6.525 MARITIME MOBILE 5.109 5.110 5.130 5.132 5.137			6.2-6.525 MARITIME MOBILE 5.109 5.110 5.130 5.132 US82 US296 US340		Maritime (80)
6.525-6.685 AERONAUTICAL MOBILE (R)			6.525-6.685 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
6.685-6.765 AERONAUTICAL MOBILE (OR)			6.685-6.765 AERONAUTICAL MOBILE (OR) US340		
6.765-7 FIXED MOBILE except aeronautical mobile (R) 5.138			6.765-7 FIXED US22 MOBILE except aeronautical mobile (R) 5.138 US340		ISM Equipment (18) Private Land Mobile (90)
7-7.1 AMATEUR AMATEUR-SATELLITE 5.140 5.141 5.141A			7-7.2 US340	7-7.1 AMATEUR AMATEUR-SATELLITE US340	Amateur Radio (97)
7.1-7.2 AMATEUR 5.142 5.141A 5.141B				7.1-7.2 AMATEUR US340	
7.2-7.3 BROADCASTING	7.2-7.3 AMATEUR 5.142	7.2-7.3 BROADCASTING	7.2-7.3 US142 US340	7.2-7.3 AMATEUR US142 US340	International Broadcast Stations (73F) Amateur Radio (97)
7.3-7.4 BROADCASTING 5.134 5.143 5.143A 5.143B 5.143C 5.143D			7.3-7.4 BROADCASTING 5.134 US136 US340		International Broadcast Stations (73F) Maritime (80) Private Land Mobile (90)

7.4-7.45 BROADCASTING 5.143B 5.143C	7.4-7.45 FIXED MOBILE except aeronautical mobile (R)	7.4-7.45 BROADCASTING 5.143A 5.143C	7.4-7.45 FIXED MOBILE except aeronautical mobile (R) US142 US340	
7.45-8.1 FIXED MOBILE except aeronautical mobile (R) 5.144			7.45-8.1 FIXED US22 MOBILE except aeronautical mobile (R) US340	Maritime (80) Aviation (87) Private Land Mobile (90)
8.1-8.195 FIXED MARITIME MOBILE			8.1-8.195 FIXED MARITIME MOBILE US340	Maritime (80)
8.195-8.815 MARITIME MOBILE 5.109 5.110 5.132 5.145 5.111			8.195-8.815 MARITIME MOBILE 5.109 5.110 5.132 5.145 US82 5.111 US296 US340	Maritime (80) Aviation (87)
8.815-8.965 AERONAUTICAL MOBILE (R)			8.815-8.965 AERONAUTICAL MOBILE (R) US340	Aviation (87)
8.965-9.04 AERONAUTICAL MOBILE (OR)			8.965-9.04 AERONAUTICAL MOBILE (OR) US340	
9.04-9.4 FIXED			9.04-9.4 FIXED US340	Maritime (80) Private Land Mobile (90)
9.4-9.5 BROADCASTING 5.134 5.146			9.4-9.9 BROADCASTING 5.134 US136 US340	International Broadcast Stations (73F)
9.5-9.9 BROADCASTING 5.147				
9.9-9.995 FIXED			9.9-9.995 FIXED US340	Private Land Mobile (90)
9.995-10.003 STANDARD FREQUENCY AND TIME SIGNAL (10 MHz) 5.111			9.995-10.005 STANDARD FREQUENCY AND TIME SIGNAL (10 MHz) 5.111 US1 US340	
10.003-10.005 STANDARD FREQUENCY AND TIME SIGNAL Space research 5.111				

Table of Frequency Allocations			10.005-15.01 MHz (HF)		Page 11
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
10.005-10.1 AERONAUTICAL MOBILE (R) 5.111			10.005-10.1 AERONAUTICAL MOBILE (R) 5.111 US283 US340		Aviation (87)
10.1-10.15 FIXED Amateur			10.1-10.15 US247 US340	10.1-10.15 AMATEUR US247 US340	Amateur Radio (97)
10.15-11.175 FIXED Mobile except aeronautical mobile (R)			10.15-11.175 FIXED Mobile except aeronautical mobile (R) US340		Private Land Mobile (90)
11.175-11.275 AERONAUTICAL MOBILE (OR)			11.175-11.275 AERONAUTICAL MOBILE (OR) US340		
11.275-11.4 AERONAUTICAL MOBILE (R)			11.275-11.4 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
11.4-11.6 FIXED			11.4-11.6 FIXED US340		Private Land Mobile (90)
11.6-11.65 BROADCASTING 5.134 5.146			11.6-12.1 BROADCASTING 5.134		International Broadcast Stations (73F)
11.65-12.05 BROADCASTING 5.147					
12.05-12.1 BROADCASTING 5.134 5.146			 US136 US340		
12.1-12.23 FIXED			12.1-12.23 FIXED US340		Private Land Mobile (90)
12.23-13.2 MARITIME MOBILE 5.109 5.110 5.132 5.145			12.23-13.2 MARITIME MOBILE 5.109 5.110 5.132 5.145 US82 US296 US340		Maritime (80)
13.2-13.26 AERONAUTICAL MOBILE (OR)			13.2-13.26 AERONAUTICAL MOBILE (OR) US340		

13.26-13.36 AERONAUTICAL MOBILE (R)	13.26-13.36 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
13.36-13.41 FIXED RADIO ASTRONOMY 5.149	13.36-13.41 RADIO ASTRONOMY US342 G115	13.36-13.41 RADIO ASTRONOMY US342	
13.41-13.57 FIXED Mobile except aeronautical mobile (R) 5.150	13.41-13.57 FIXED Mobile except aeronautical mobile (R) 5.150 US340	13.41-13.57 FIXED 5.150 US340	ISM Equipment (18) Private Land Mobile (90)
13.57-13.6 BROADCASTING 5.134 5.151	13.57-13.87 BROADCASTING 5.134 US136 US340		International Broadcast Stations (73F)
13.6-13.8 BROADCASTING			
13.8-13.87 BROADCASTING 5.134 5.151			
13.87-14 FIXED Mobile except aeronautical mobile (R)	13.87-14 FIXED Mobile except aeronautical mobile (R) US340	13.87-14 FIXED US340	Private Land Mobile (90)
14-14.25 AMATEUR AMATEUR-SATELLITE	14-14.35 US340	14-14.25 AMATEUR AMATEUR-SATELLITE US340	Amateur Radio (97)
14.25-14.35 AMATEUR 5.152		14.25-14.35 AMATEUR US340	
14.35-14.99 FIXED Mobile except aeronautical mobile (R)	14.35-14.99 FIXED Mobile except aeronautical mobile (R) US340	14.35-14.99 FIXED US340	Private Land Mobile (90)
14.99-15.005 STANDARD FREQUENCY AND TIME SIGNAL (15 MHz) 5.111	14.99-15.01 STANDARD FREQUENCY AND TIME SIGNAL (15 MHz) 5.111 US1 US340		
15.005-15.01 STANDARD FREQUENCY AND TIME SIGNAL Space research			

Table of Frequency Allocations			15.01-22.855 MHz (HF)		Page 13
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
15.01-15.1 AERONAUTICAL MOBILE (OR)			15.01-15.1 AERONAUTICAL MOBILE (OR) US340		
15.1-15.6 BROADCASTING			15.1-15.8 BROADCASTING 5.134 US136 US340		International Broadcast Stations (73F)
15.6-15.8 BROADCASTING 5.134 5.146					
15.8-16.36 FIXED 5.153			15.8-16.36 FIXED US340		Private Land Mobile (90)
16.36-17.41 MARITIME MOBILE 5.109 5.110 5.132 5.145			16.36-17.41 MARITIME MOBILE 5.109 5.110 5.132 5.145 US82 US296 US340		Maritime (80)
17.41-17.48 FIXED			17.41-17.48 FIXED US340		Private Land Mobile (90)
17.48-17.55 BROADCASTING 5.134 5.146			17.48-17.9 BROADCASTING 5.134 US136 US340		International Broadcast Stations (73F)
17.55-17.9 BROADCASTING					
17.9-17.97 AERONAUTICAL MOBILE (R)			17.9-17.97 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
17.97-18.03 AERONAUTICAL MOBILE (OR)			17.97-18.03 AERONAUTICAL MOBILE (OR) US340		
18.030-18.052 FIXED			18.03-18.068 FIXED US340		Maritime (80) Private Land Mobile (90)
18.052-18.068 FIXED Space research					
18.068-18.168 AMATEUR AMATEUR-SATELLITE 5.154			18.068-18.168 US340	18.068-18.168 AMATEUR AMATEUR-SATELLITE US340	Amateur Radio (97)
18.168-18.78 FIXED Mobile except aeronautical mobile			18.168-18.78 FIXED Mobile US340		Maritime (80) Private Land Mobile (90)

18.78-18.9 MARITIME MOBILE	18.78-18.9 MARITIME MOBILE US82 US296 US340		Maritime (80)
18.9-19.02 BROADCASTING 5.134 5.146	18.9-19.02 BROADCASTING 5.134 US136 US340		International Broadcast Stations (73F)
19.02-19.68 FIXED	19.02-19.68 FIXED US340		Private Land Mobile (90)
19.68-19.8 MARITIME MOBILE 5.132	19.68-19.8 MARITIME MOBILE 5.132 US340		Maritime (80)
19.8-19.99 FIXED	19.8-19.99 FIXED US340		Private Land Mobile (90)
19.99-19.995 STANDARD FREQUENCY AND TIME SIGNAL Space research 5.111	19.99-20.01 STANDARD FREQUENCY AND TIME SIGNAL (20 MHz)		
19.995-20.01 STANDARD FREQUENCY AND TIME SIGNAL (20 MHz) 5.111	5.111 US1 US340		
20.01-21 FIXED Mobile	20.01-21 FIXED Mobile US340	20.01-21 FIXED US340	Private Land Mobile (90)
21-21.45 AMATEUR AMATEUR-SATELLITE	21-21.45 US340	21-21.45 AMATEUR AMATEUR-SATELLITE US340	Amateur Radio (97)
21.45-21.85 BROADCASTING	21.45-21.85 BROADCASTING US340		International Broadcast Stations (73F)
21.85-21.87 FIXED 5.155A 5.155	21.85-21.924 FIXED		Aviation (87) Private Land Mobile (90)
21.87-21.924 FIXED 5.155B	US340		
21.924-22 AERONAUTICAL MOBILE (R)	21.924-22 AERONAUTICAL MOBILE (R) US340		Aviation (87)
22-22.855 MARITIME MOBILE 5.132 5.156	22-22.855 MARITIME MOBILE 5.132 US82 US296 US340		Maritime (80)

Table of Frequency Allocations			22.855-29.7 MHz (HF)		Page 15
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
22.855-23 FIXED 5.156			22.855-23 FIXED US340		Private Land Mobile (90)
23-23.2 FIXED Mobile except aeronautical mobile (R) 5.156			23-23.2 FIXED Mobile except aeronautical mobile (R) US340	23-23.2 FIXED US340	
23.2-23.35 FIXED 5.156A AERONAUTICAL MOBILE (OR)			23.2-23.35 AERONAUTICAL MOBILE (OR) US340		
23.35-24 FIXED MOBILE except aeronautical mobile 5.157			23.35-24.89 FIXED MOBILE except aeronautical mobile	23.35-24.89 FIXED	Private Land Mobile (90)
24-24.89 FIXED LAND MOBILE			 US340	 US340	
24.89-24.99 AMATEUR AMATEUR-SATELLITE			24.89-24.99 US340	24.89-24.99 AMATEUR AMATEUR-SATELLITE US340	Amateur Radio (97)
24.99-25.005 STANDARD FREQUENCY AND TIME SIGNAL (25 MHz)			24.99-25.01 STANDARD FREQUENCY AND TIME SIGNAL (25 MHz)		
25.005-25.01 STANDARD FREQUENCY AND TIME SIGNAL Space research			 US1 US340		
25.01-25.07 FIXED MOBILE except aeronautical mobile			25.01-25.07 US340	25.01-25.07 LAND MOBILE US340 NG112	Private Land Mobile (90)
25.07-25.21 MARITIME MOBILE			25.07-25.21 MARITIME MOBILE US82 US281 US296 US340	25.07-25.21 MARITIME MOBILE US82 US281 US296 US340 NG112	Maritime (80) Private Land Mobile (90)
25.21-25.55 FIXED MOBILE except aeronautical mobile			25.21-25.33 US340	25.21-25.33 LAND MOBILE US340	Private Land Mobile (90)
			25.33-25.55 FIXED MOBILE except aeronautical mobile US340	25.33-25.55 US340	

25.55-25.67 RADIO ASTRONOMY 5.149	25.55-25.67 RADIO ASTRONOMY US74 US342		
25.67-26.1 BROADCASTING	25.67-26.1 BROADCASTING US25 US340		International Broadcast Stations (73F) Remote Pickup (74D)
26.1-26.175 MARITIME MOBILE 5.132	26.1-26.175 MARITIME MOBILE 5.132 US25 US340		Remote Pickup (74D) Low Power Auxiliary (74H) Maritime (80)
26.175-27.5 FIXED MOBILE except aeronautical mobile	26.175-26.48 US340	26.175-26.48 LAND MOBILE US340	Remote Pickup (74D) Low Power Auxiliary (74H)
	26.48-26.95 FIXED MOBILE except aeronautical mobile US340	26.48-26.95 US340	
	26.95-27.41 5.150 US340	26.95-26.96 FIXED 5.150 US340	ISM Equipment (18)
		26.96-27.23 MOBILE except aeronautical mobile 5.150 US340	ISM Equipment (18) Personal Radio (95)
		27.23-27.41 FIXED MOBILE except aeronautical mobile 5.150 US340	ISM Equipment (18) Private Land Mobile (90) Personal Radio (95)
5.150	27.41-27.54 US340	27.41-27.54 FIXED LAND MOBILE US340	Private Land Mobile (90)
27.5-28 METEOROLOGICAL AIDS FIXED MOBILE	27.54-28 FIXED MOBILE US298 US340	27.54-28 US298 US340	
28-29.7 AMATEUR AMATEUR-SATELLITE	28-29.7 US340	28-29.7 AMATEUR AMATEUR-SATELLITE US340	Amateur Radio (97)

Table of Frequency Allocations			29.7-47 MHz (HF/VHF)		Page 17
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
29.7-30.005 FIXED MOBILE			29.7-29.89 US340	29.7-29.8 LAND MOBILE US340	Private Land Mobile (90)
				29.8-29.89 FIXED US340	
			29.89-29.91 FIXED MOBILE US340	29.89-29.91 US340	
			29.91-30 US340	29.91-30 FIXED US340	
30.005-30.01 SPACE OPERATION (satellite identification) FIXED MOBILE SPACE RESEARCH			30-30.56 FIXED MOBILE	30-30.56	
30.01-37.5 FIXED MOBILE			30.56-32	30.56-32 FIXED LAND MOBILE NG124	Private Land Mobile (90)
			32-33 FIXED MOBILE	32-33	
			33-34	33-34 FIXED LAND MOBILE NG124	Private Land Mobile (90)
			34-35 FIXED MOBILE	34-35	
			35-36	35-36 FIXED LAND MOBILE	Public Mobile (22) Private Land Mobile (90)

	36-37 FIXED MOBILE US220	36-37 US220	
	37-37.5	37-37.5 LAND MOBILE NG124	Private Land Mobile (90)
37.5-38.25 FIXED MOBILE Radio astronomy	37.5-38 Radio astronomy US342	37.5-38 LAND MOBILE Radio astronomy US342 NG59 NG124	
5.149	38-38.25 FIXED MOBILE RADIO ASTRONOMY US81 US342	38-38.25 RADIO ASTRONOMY US81 US342	
38.25-39.986 FIXED MOBILE	38.25-39 FIXED MOBILE	38.25-39	
	39-40	39-40 LAND MOBILE NG124	Private Land Mobile (90)
39.986-40.02 FIXED MOBILE Space research	40-42 FIXED MOBILE	40-42	ISM Equipment (18) Private Land Mobile (90)
40.02-40.98 FIXED MOBILE 5.150			
40.98-41.015 FIXED MOBILE Space research 5.160 5.161			
41.015-44 FIXED MOBILE 5.160 5.161	5.150 US210 US220	5.150 US210 US220	
	42-46.6	42-43.69 FIXED LAND MOBILE NG124 NG141	Public Mobile (22) Private Land Mobile (90)
44-47 FIXED MOBILE		43.69-46.6 LAND MOBILE NG124 NG141	Private Land Mobile (90)
5.162 5.162A	46.6-47 FIXED MOBILE	46.6-47	Page 18

Table of Frequency Allocations			47-137 MHz (VHF)		Page 19
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
47-68 BROADCASTING 5.162A 5.163 5.164 5.165 5.169 5.171	47-50 FIXED MOBILE	47-50 FIXED MOBILE BROADCASTING 5.162A	47-49.6	47-49.6 LAND MOBILE NG124	Private Land Mobile (90)
			49.6-50 FIXED MOBILE	49.6-50	
	50-54 AMATEUR 5.162A 5.166 5.167 5.167A 5.168 5.170		50-73	50-54 AMATEUR	Amateur Radio (97)
	54-68 BROADCASTING Fixed Mobile 5.172	54-68 FIXED MOBILE BROADCASTING 5.162A		54-72 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/ Booster (74G) Low Power Auxiliary (74H)
68-74.8 FIXED MOBILE except aeronautical mobile	68-72 BROADCASTING Fixed Mobile 5.173	68-74.8 FIXED MOBILE			
	72-73 FIXED MOBILE			72-73 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Aviation (87) Private Land Mobile (90) Personal Radio (95)
	73-74.6 RADIO ASTRONOMY 5.178		73-74.6 RADIO ASTRONOMY US74 US246		
	74.6-74.8 FIXED MOBILE		74.6-74.8 FIXED MOBILE US273		Private Land Mobile (90)
5.149 5.175 5.177 5.179		5.149 5.176 5.179			
74.8-75.2 AERONAUTICAL RADIONAVIGATION 5.180 5.181			74.8-75.2 AERONAUTICAL RADIONAVIGATION 5.180		Aviation (87)
75.2-87.5 FIXED MOBILE except aeronautical mobile	75.2-75.4 FIXED MOBILE 5.179		75.2-75.4 FIXED MOBILE US273		Private Land Mobile (90)

5.175 5.179 5.187	75.4-76 FIXED MOBILE	75.4-87 FIXED MOBILE 5.182 5.183 5.188	75.4-88	75.4-76 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Aviation (87) Private Land Mobile (90) Personal Radio (95)
87.5-100 BROADCASTING 5.190	76-88 BROADCASTING Fixed Mobile 5.185	87-100 FIXED MOBILE BROADCASTING		76-88 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/ Booster (74G) Low Power Auxiliary (74H)
	88-100 BROADCASTING		88-108 US93	88-108 BROADCASTING NG2 US93 NG5	Broadcast Radio (FM)(73) FM Translator/Booster (74L)
100-108 BROADCASTING 5.192 5.194					
108-117.975 AERONAUTICAL RADIONAVIGATION 5.197 5.197A			108-117.975 AERONAUTICAL RADIONAVIGATION US93 US343		Aviation (87)
117.975-137 AERONAUTICAL MOBILE (R) 5.111 5.200 5.201 5.202			117.975-121.9375 AERONAUTICAL MOBILE (R) 5.111 5.200 US26 US28 US403		
			121.9375-123.0875 US30 US31 US33 US80 US102 US213	121.9375-123.0875 AERONAUTICAL MOBILE US30 US31 US33 US80 US102 US213	
			123.0875-123.5875 AERONAUTICAL MOBILE 5.200 US32 US33 US112		
			123.5875-128.8125 AERONAUTICAL MOBILE (R) US26 US403		
			128.8125-132.0125	128.8125-132.0125 AERONAUTICAL MOBILE (R)	
			132.0125-136 AERONAUTICAL MOBILE (R) US26		
			136-137 US244	136-137 AERONAUTICAL MOBILE (R) US244	

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
137-137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.208B 5.209 SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137-137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 SPACE RESEARCH (space-to-Earth) 5.208		Satellite Communications (25)
137.025-137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Fixed Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.209 Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137.025-137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Mobile-satellite (space-to-Earth) US319 US320 5.208		
137.175-137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.208B 5.209 SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137.175-137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 SPACE RESEARCH (space-to-Earth) 5.208		
137.825-138 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Fixed Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.209 Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137.825-138 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Mobile-satellite (space-to-Earth) US319 US320 5.208		
138-143.6 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	138-143.6 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	138-143.6 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	138-144 FIXED MOBILE	138-144	
143.6-143.65 AERONAUTICAL MOBILE (OR) SPACE RESEARCH (space-to-Earth) 5.211 5.212 5.214	143.6-143.65 FIXED MOBILE RADIOLOCATION SPACE RESEARCH (space-to-Earth)	143.6-143.65 FIXED MOBILE SPACE RESEARCH (space-to-Earth) 5.207 5.213			
143.65-144 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	143.65-144 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	143.65-144 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	G30		

144-146 AMATEUR AMATEUR-SATELLITE 5.216			144-148	144-146 AMATEUR AMATEUR-SATELLITE	Amateur Radio (97)
146-148 FIXED MOBILE except aeronautical mobile (R)	146-148 AMATEUR 5.217	146-148 AMATEUR FIXED MOBILE 5.217		146-148 AMATEUR	
148-149.9 FIXED MOBILE except aeronautical mobile (R) MOBILE-SATELLITE (Earth-to-space) 5.209 5.218 5.219 5.221	148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.209 5.218 5.219 5.221		148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) US319 US320 US323 US325 5.218 5.219 G30	148-149.9 MOBILE-SATELLITE (Earth-to-space) US320 US323 US325 5.218 5.219 US319	Satellite Communications (25)
149.9-150.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.224A RADIONAVIGATION-SATELLITE 5.224B 5.220 5.222 5.223			149.9-150.05 MOBILE-SATELLITE (Earth-to-space) US319 US320 RADIONAVIGATION-SATELLITE 5.223		
150.05-153 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149	150.05-156.4875 FIXED MOBILE		150.05-150.8 FIXED MOBILE US73 G30	150.05-150.8 US73	
			150.8-152.855 US73	150.8-152.855 FIXED LAND MOBILE NG4 NG51 NG112 US73 NG124	Public Mobile (22) Private Land Mobile (90) Personal Radio (95)
153-154 FIXED MOBILE except aeronautical mobile (R) Meteorological aids			152.855-156.2475	152.855-154 LAND MOBILE NG4 NG124	Remote Pickup (74D) Private Land Mobile (90)
154-156.4875 FIXED MOBILE except aeronautical mobile (R) 5.226	5.225 5.226			154-156.2475 FIXED LAND MOBILE NG112 5.226 NG117 NG124 NG148	Maritime (80) Private Land Mobile (90) Personal Radio (95)
156.4875-156.5625 MARITIME MOBILE (distress and calling via DSC) 5.111 5.226 5.227			156.2475-156.7625 US77 US106 US226 US266	156.2475-156.7625 MARITIME MOBILE US106 US226 NG117 US77 US266 NG124	Maritime (80) Aviation (87)
156.5625-156.7625 FIXED MOBILE except aeronautical mobile (R) 5.226	156.5625-156.7625 FIXED MOBILE 5.225 5.226				

Table of Frequency Allocations			156.7625-267 MHz (VHF)		Page 23
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
156.7625-156.8375 MARITIME MOBILE (distress and calling) 5.111 5.226			156.7625-156.8375 MARITIME MOBILE (distress, urgency, safety and calling) 5.226 US266		Maritime (80) Aviation (87)
156.8375-174 FIXED MOBILE except aeronautical mobile	156.8375-174 FIXED MOBILE		156.8375-157.0375 5.226 US77 US266	156.8375-157.0375 MARITIME MOBILE 5.226 US77 US266	
			157.0375-157.1875 MARITIME MOBILE US214 5.226 US266 G109	157.0375-157.1875 5.226 US214 US266	Maritime (80)
			157.1875-161.575	157.1875-157.45 MOBILE except aeronautical mobile US266 5.226 NG111	Maritime (80) Aviation (87) Private Land Mobile (90)
				157.45-161.575 FIXED LAND MOBILE NG28 NG111 NG112 5.226 NG6 NG70 NG124 NG148 NG155	Public Mobile (22) Remote Pickup (74D) Maritime (80) Private Land Mobile (90)
			161.575-161.625 5.226 US77	161.575-161.625 MARITIME MOBILE 5.226 US77 NG6 NG17	Public Mobile (22) Maritime (80)
			161.625-161.9625	161.625-161.775 LAND MOBILE NG6 5.226	Public Mobile (22) Remote Pickup (74D) Low Power Auxiliary (74H)
			US266	161.775-161.9625 MOBILE except aeronautical mobile US266 NG6 5.226	Maritime (80) Private Land Mobile (90)
			161.9625-161.9875 MARITIME MOBILE (AIS) US228		Maritime (80)
			161.9875-162.0125	161.9875-162.0125 MOBILE except aeronautical mobile 5.226	
			162.0125-162.0375 MARITIME MOBILE (AIS) US228		
			162.0375-173.2 FIXED MOBILE US8 US11 US13 US73 US300 US312 G5	162.0375-173.2 US8 US11 US13 US73 US300 US312	Remote Pickup (74D) Private Land Mobile (90)
			173.2-173.4	173.2-173.4 FIXED Land mobile	Private Land Mobile (90)
5.226 5.227A 5.229	5.226 5.227A 5.230 5.231 5.232		173.4-174 FIXED MOBILE G5	173.4-174	

55

174-223 BROADCASTING 5.235 5.237 5.243	174-216 BROADCASTING Fixed Mobile 5.234	174-223 FIXED MOBILE BROADCASTING 5.233 5.238 5.240 5.245	174-216	174-216 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H)
	216-220 FIXED MARITIME MOBILE Radiolocation 5.241 5.242		216-217 Fixed Land mobile US210 US241 G2	216-219 FIXED MOBILE except aeronautical mobile US210 US241 NG173	Maritime (80) Private Land Mobile (90) Personal Radio (95)
			217-220 Fixed Mobile US210 US241	219-220 FIXED MOBILE except aeronautical mobile Amateur NG152 US210 US241 NG173	Maritime (80) Private Land Mobile (90) Amateur Radio (97)
	220-225 AMATEUR FIXED MOBILE Radiolocation 5.241		220-222 FIXED LAND MOBILE US241 US242		Private Land Mobile (90)
223-230 BROADCASTING Fixed Mobile 5.243 5.246 5.247		223-230 FIXED MOBILE BROADCASTING AERONAUTICAL RADIONAVIGATION Radiolocation 5.250	222-225	222-225 AMATEUR	Amateur Radio (97)
	225-235 FIXED MOBILE		225-235 FIXED MOBILE G27	225-235	
230-235 FIXED MOBILE 5.247 5.251 5.252		230-235 FIXED MOBILE AERONAUTICAL RADIONAVIGATION 5.250			
235-267 FIXED MOBILE 5.111 5.252 5.254 5.256 5.256A			235-267 FIXED MOBILE 5.111 5.256 G27 G100	235-267 5.111 5.256	Page 24

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
267-272 FIXED MOBILE Space operation (space-to-Earth) 5.254 5.257			267-322 FIXED MOBILE G27 G100	267-322	
272-273 SPACE OPERATION (space-to-Earth) FIXED MOBILE 5.254					
273-312 FIXED MOBILE 5.254					
312-315 FIXED MOBILE Mobile-satellite (Earth-to-space) 5.254 5.255					
315-322 FIXED MOBILE 5.254					
322-328.6 FIXED MOBILE RADIO ASTRONOMY 5.149			322-328.6 FIXED MOBILE US342 G27	322-328.6 US342	
328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258 5.259			328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258		Aviation (87)
335.4-387 FIXED MOBILE 5.254			335.4-399.9 FIXED MOBILE	335.4-399.9	
387-390 FIXED MOBILE Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.254 5.255					
390-399.9 FIXED MOBILE 5.254			 G27 G100		

399.9-400.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.224A RADIONAVIGATION-SATELLITE 5.222 5.224B 5.260 5.220	399.9-400.05 MOBILE-SATELLITE (Earth-to-space) US319 US320 RADIONAVIGATION-SATELLITE 5.260		Satellite Communications (25)
400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261 5.262	400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261		
400.15-401 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.208B 5.209 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.262 5.264	400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.264	400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 MOBILE-SATELLITE (space-to-Earth) US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.264 US319	Satellite Communications (25)
401-402 METEOROLOGICAL AIDS SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US345 US384	401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US345 US384	MedRadio (95I)
402-403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	402-403 METEOROLOGICAL AIDS (radiosonde) US70 EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US345 US384	402-403 METEOROLOGICAL AIDS (radiosonde) US70 Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US345 US384	
403-406 METEOROLOGICAL AIDS Fixed Mobile except aeronautical mobile	403-406 METEOROLOGICAL AIDS (radiosonde) US70 US345 G6	403-406 METEOROLOGICAL AIDS (radiosonde) US70 US345	
406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267	406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267		Maritime (EPIRBs) (80V) Aviation (ELTs) (87F) Personal Radio (95)
406.1-410 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149	406.1-410 FIXED MOBILE RADIO ASTRONOMY US74 US13 US117 G5 G6	406.1-410 RADIO ASTRONOMY US74 US13 US117	Private Land Mobile (90)

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
410-420 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-space) 5.268			410-420 FIXED MOBILE SPACE RESEARCH (space-to-space) 5.268 US13 G5	410-420 US13	Private Land Mobile (90)
420-430 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271			420-450 RADIOLOCATION G2 G129 5.286 US87 US230 US269 US270 US397 G8	420-450 Amateur US270 5.282 5.286 US87 US230 US269 US397	Private Land Mobile (90) Amateur Radio (97)
430-432 AMATEUR RADIOLOCATION 5.271 5.272 5.273 5.274 5.275 5.276 5.277	430-432 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279				
432-438 AMATEUR RADIOLOCATION Earth exploration-satellite (active) 5.279A 5.138 5.271 5.272 5.276 5.277 5.280 5.281 5.282	432-438 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.279A 5.271 5.276 5.277 5.278 5.279 5.281 5.282				
438-440 AMATEUR RADIOLOCATION 5.271 5.273 5.274 5.275 5.276 5.277 5.283	438-440 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279				
440-450 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271 5.284 5.285 5.286					
450-455 FIXED MOBILE 5.286AA 5.209 5.271 5.286 5.286A 5.286B 5.286C 5.286D 5.286E			450-454 5.286 US87	450-454 LAND MOBILE 5.286 US87 NG112 NG124	Remote Pickup (74D) Low Power Auxiliary (74H) Private Land Mobile (90)
			454-456	454-455 FIXED LAND MOBILE NG12 NG112 NG148	Public Mobile (22) Maritime (80)
455-456 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	455-456 FIXED MOBILE 5.286AA MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	455-456 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E		455-456 LAND MOBILE	Remote Pickup (74D) Low Power Auxiliary (74H)

456-459 FIXED MOBILE 5.286AA 5.271 5.287 5.288			456-459 5.287 5.288	456-460 FIXED LAND MOBILE 5.287 5.288 NG12 NG112 NG124 NG148	Public Mobile (22) Maritime (80) Private Land Mobile (90)
459-460 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	459-460 FIXED MOBILE 5.286AA MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	459-460 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	459-460		
460-470 FIXED MOBILE 5.286AA Meteorological-satellite (space-to-Earth) 5.287 5.288 5.289 5.290			460-470 Meteorological-satellite (space-to-Earth) 5.287 5.288 5.289 US73 US201 US209	460-462.5375 FIXED LAND MOBILE 5.289 US201 US209 NG124	Private Land Mobile (90)
				462.5375-462.7375 LAND MOBILE 5.289 US201	Personal Radio (95)
				462.7375-467.5375 FIXED LAND MOBILE 5.287 5.289 US73 US201 US209 NG124	Private Land Mobile (90)
				467.5375-467.7375 LAND MOBILE 5.287 5.289 US201	Personal Radio (95)
				467.7375-470 FIXED LAND MOBILE 5.288 5.289 US73 US201 NG124	Maritime (80) Private Land Mobile (90)
470-790 BROADCASTING 5.149 5.291A 5.294 5.296 5.300 5.302 5.304 5.306 5.311A 5.312	470-512 BROADCASTING Fixed Mobile 5.292 5.293	470-585 FIXED MOBILE BROADCASTING 5.291 5.298	470-608	470-512 FIXED LAND MOBILE BROADCASTING NG5 NG14 NG66 NG115 NG149	Public Mobile (22) Broadcast Radio (TV)(73) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H) Private Land Mobile (90)
	512-608 BROADCASTING 5.297	585-610 FIXED MOBILE BROADCASTING RADIONAVIGATION 5.149 5.305 5.306 5.307		512-608 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H)
	608-614 RADIO ASTRONOMY Mobile-satellite except aeronautical mobile-satellite (Earth-to-space)		608-614 LAND MOBILE (medical telemetry and medical telecommand) RADIO ASTRONOMY US74 US246		Personal Radio (95)
	614-698 BROADCASTING Fixed Mobile 5.293 5.309 5.311A	610-890 FIXED MOBILE 5.313A 5.317A BROADCASTING 5.149 5.305 5.306 5.307 5.311A 5.320	614-698	614-698 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H)

Table of Frequency Allocations			698-941 MHz (UHF)			Page 29
International Table			United States Table			FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table		
(See previous page)	698-806 FIXED MOBILE 5.313B 5.317A BROADCASTING	(See previous page)	698-763	698-763 FIXED MOBILE BROADCASTING NG159		Wireless Communications (27) LPTV and TV Translator (74G)
			763-775	763-775 FIXED MOBILE NG158 NG159		Public Safety Land Mobile (90R)
			775-793	775-793 FIXED MOBILE BROADCASTING NG159		Wireless Communications (27) LPTV and TV Translator (74G)
790-862 FIXED MOBILE except aeronautical mobile 5.316B 5.317A BROADCASTING			793-805	793-805 FIXED MOBILE NG158 NG159		Public Safety Land Mobile (90R)
			805-806	805-806 FIXED MOBILE BROADCASTING NG159		Wireless Communications (27) LPTV and TV Translator (74G)
	5.293 5.309 5.311A					
	806-890 FIXED MOBILE 5.317A BROADCASTING		806-809	806-809 LAND MOBILE		Public Safety Land Mobile (90S)
			809-851	809-849 FIXED LAND MOBILE		Public Mobile (22) Private Land Mobile (90)
				849-851 AERONAUTICAL MOBILE		Public Mobile (22)
			851-854	851-854 LAND MOBILE		Public Safety Land Mobile (90S)
5.312 5.314 5.315 5.316 5.316A 5.319			854-890	854-894 FIXED LAND MOBILE		Public Mobile (22) Private Land Mobile (90)
862-890 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322						
5.319 5.323	5.317 5.318					

890-942 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322 Radiolocation	890-902 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation 5.318 5.325	890-942 FIXED MOBILE 5.317A BROADCASTING Radiolocation	890-902 US116 US268 G2	US116 US268	
				894-896 AERONAUTICAL MOBILE US116 US268	Public Mobile (22)
				896-901 FIXED LAND MOBILE US116 US268	Private Land Mobile (90)
				901-902 FIXED MOBILE US116 US268	Personal Communications (24)
	902-928 FIXED Amateur Mobile except aeronautical mobile 5.325A Radiolocation 5.150 5.325 5.326		902-928 RADIOLOCATION G59 5.150 US218 US267 US275 G11	902-928 5.150 US218 US267 US275	ISM Equipment (18) Private Land Mobile (90) Amateur Radio (97)
	928-942 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation		928-932 US116 US268 G2	928-929 FIXED US116 US268 NG120	Public Mobile (22) Private Land Mobile (90) Fixed Microwave (101)
				929-930 FIXED LAND MOBILE US116 US268	Private Land Mobile (90)
				930-931 FIXED MOBILE US116 US268	Personal Communications (24)
				931-932 FIXED LAND MOBILE US116 US268	Public Mobile (22)
			932-935 FIXED US268 G2	932-935 FIXED US268 NG120	Public Mobile (22) Fixed Microwave (101)
			935-941 US116 US268 G2	935-940 FIXED LAND MOBILE US116 US268	Private Land Mobile (90)
				940-941 FIXED MOBILE US116 US268	Personal Communications (24)
5.323	5.325	5.327			

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
(See previous page)	(See previous page)	(See previous page)	941-944 FIXED US268 US301 G2	941-944 FIXED US268 US301 NG30 NG120	Public Mobile (22) Aural Broadcast Auxiliary (74E) Fixed Microwave (101)
942-960 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322 5.323	942-960 FIXED MOBILE 5.317A	942-960 FIXED MOBILE 5.317A BROADCASTING 5.320	944-960	944-960 FIXED NG120	Public Mobile (22) Aural Broadcast Auxiliary (74E) Low Power Auxiliary (74H) Fixed Microwave (101)
960-1164 AERONAUTICAL MOBILE (R) 5.327A AERONAUTICAL RADIONAVIGATION 5.328			960-1164 AERONAUTICAL RADIONAVIGATION 5.328 US224 US400		Aviation (87)
1164-1215 AERONAUTICAL RADIONAVIGATION 5.328 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.328A			1164-1215 AERONAUTICAL RADIONAVIGATION 5.328 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328A US224		
1215-1240 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.329 5.329A SPACE RESEARCH (active) 5.330 5.331 5.332			1215-1240 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G56 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) G132 SPACE RESEARCH (active) 5.332	1215-1240 Earth exploration-satellite (active) Space research (active)	
1240-1300 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.329 5.329A SPACE RESEARCH (active) Amateur 5.282 5.330 5.331 5.332 5.335 5.335A			1240-1300 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G56 SPACE RESEARCH (active) AERONAUTICAL RADIONAVIGATION 5.332 5.335	1240-1300 AERONAUTICAL RADIONAVIGATION Amateur Earth exploration-satellite (active) Space research (active) 5.282	Amateur Radio (97)
1300-1350 RADIOLOCATION AERONAUTICAL RADIONAVIGATION 5.337 RADIONAVIGATION-SATELLITE (Earth-to-space) 5.149 5.337A			1300-1350 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation G2 US342	1300-1350 AERONAUTICAL RADIONAVIGATION 5.337 US342	Aviation (87)
1350-1400 FIXED MOBILE RADIOLOCATION	1350-1400 RADIOLOCATION 5.338A		1350-1390 FIXED MOBILE RADIOLOCATION G2 5.334 5.339 US342 US385 G27 G114	1350-1390 5.334 5.339 US342 US385	

5.149 5.338 5.338A 5.339	5.149 5.334 5.339	1390-1395 5.339 US37 US342 US385 US398	1390-1392 FIXED MOBILE except aeronautical mobile Fixed-satellite (Earth-to-space) US368 5.339 US37 US342 US385 US398 1392-1395 FIXED MOBILE except aeronautical mobile 5.339 US37 US342 US385 US398	Wireless Communications (27)
		1395-1400 LAND MOBILE (medical telemetry and medical telecommand) 5.339 US37 US342 US385 US398		Personal Radio (95)
1400-1427 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341		1400-1427 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246		
1427-1429 SPACE OPERATION (Earth-to-space) FIXED MOBILE except aeronautical mobile 5.338A 5.341		1427-1429.5 LAND MOBILE (medical telemetry and medical telecommand) US350 5.341 US37 US398	1427-1429.5 LAND MOBILE (telemetry and telecommand) Fixed (telemetry) 5.341 US37 US350 US398	Private Land Mobile (90) Personal Radio (95)
1429-1452 FIXED MOBILE except aeronautical mobile 5.338A 5.341 5.342	1429-1452 FIXED MOBILE 5.343 5.338A 5.341	1429.5-1432 5.341 US37 US350 US398	1429.5-1430 FIXED (telemetry and telecommand) LAND MOBILE (telemetry and telecommand) 5.341 US37 US350 US398 1430-1432 FIXED (telemetry and telecommand) LAND MOBILE (telemetry and telecommand) Fixed-satellite (space-to-Earth) US368 5.341 US37 US350 US398	
		1432-1435 5.341 US361	1432-1435 FIXED MOBILE except aeronautical mobile 5.341 US361	Wireless Communications (27)
1452-1492 FIXED MOBILE except aeronautical mobile BROADCASTING 5.345 BROADCASTING-SATELLITE 5.208B 5.345 5.341 5.342	1452-1492 FIXED MOBILE 5.343 BROADCASTING 5.345 BROADCASTING-SATELLITE 5.208B 5.345 5.341 5.344	1435-1525 MOBILE (aeronautical telemetry) 5.341 US78		Aviation (87)

Table of Frequency Allocations — 1525-1670 MHz (UHF) — Page 33

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
1492-1518 FIXED MOBILE except aeronautical mobile 5.341 5.342	1492-1518 FIXED MOBILE 5.343 5.341 5.344	1492-1518 FIXED MOBILE 5.341	(see previous page)		
1518-1525 FIXED MOBILE except aeronautical mobile MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A 5.341 5.342	1518-1525 FIXED MOBILE 5.343 MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A 5.341 5.344	1518-1525 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A 5.341			
1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A Earth exploration-satellite Mobile except aeronautical mobile 5.349 5.341 5.342 5.350 5.351 5.352A 5.354	1525-1530 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A Earth exploration-satellite Fixed Mobile 5.343 5.341 5.351 5.354	1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A Earth exploration-satellite Mobile 5.349 5.341 5.351 5.352A 5.354	1525-1535 MOBILE-SATELLITE (space-to-Earth) US315 US380 5.341 5.351		Satellite Communications (25) Maritime (80)
1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A 5.353A Earth exploration-satellite Fixed Mobile except aeronautical mobile 5.341 5.342 5.351 5.354	1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A 5.353A Earth exploration-satellite Fixed Mobile 5.343 5.341 5.351 5.354				
1535-1559 MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A 5.341 5.351 5.353A 5.354 5.355 5.356 5.357 5.357A 5.359 5.362A			1535-1559 MOBILE-SATELLITE (space-to-Earth) US308 US309 US315 US380 5.341 5.351 5.356		Satellite Communications (25) Maritime (80) Aviation (87)
1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.208B 5.328B 5.329A 5.341 5.362B 5.362C			1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.341 US208 US260 US343		Aviation (87)
1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.371 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.370 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Radiodetermination-satellite (Earth-to-space) 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) US319 US380 AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.372 US208		Satellite Communications (25) Aviation (87)

1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION 5.149 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.371 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) 5.149 5.341 5.364 5.366 5.367 5.368 5.370 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION Radiodetermination-satellite (Earth-to-space) 5.149 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) US319 US380 RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.372 US208 US342	
1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to-Earth) 5.208B 5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.371 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) Mobile-satellite (space-to-Earth) 5.208B 5.341 5.364 5.365 5.366 5.367 5.368 5.370 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to-Earth) 5.208B Radiodetermination-satellite (Earth-to-space) 5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) US319 US380 AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) Mobile-satellite (space-to-Earth) 5.341 5.364 5.365 5.366 5.367 5.368 5.372 US208	
1626.5-1660 MOBILE-SATELLITE (Earth-to-space) 5.351A 5.341 5.351 5.353A 5.354 5.355 5.357A 5.359 5.362A 5.374 5.375 5.376			1626.5-1660 MOBILE-SATELLITE (Earth-to-space) US308 US309 US315 US380 5.341 5.351 5.375	Satellite Communications (25) Maritime (80) Aviation (87)
1660-1660.5 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY 5.149 5.341 5.351 5.354 5.362A 5.376A			1660-1660.5 MOBILE-SATELLITE (Earth-to-space) US308 US309 US380 RADIO ASTRONOMY 5.341 5.351 US342	Satellite Communications (25) Aviation (87)
1660.5-1668 RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149 5.341 5.379 5.379A			1660.5-1668.4 RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246	
1668-1668.4 MOBILE-SATELLITE (Earth-to-space) 5.351A 5.379B 5.379C RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149 5.341 5.379 5.379A				
1668.4-1670 METEOROLOGICAL AIDS FIXED MOBILE except aeronautical mobile MOBILE-SATELLITE (Earth-to-space) 5.351A 5.379B 5.379C RADIO ASTRONOMY 5.149 5.341 5.379D 5.379E			1668.4-1670 METEOROLOGICAL AIDS (radiosonde) RADIO ASTRONOMY US74 5.341 US99 US342	

Table of Frequency Allocations			1670-2200 MHz (UHF)			Page 35
International Table			United States Table			FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table		
1670-1675 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (Earth-to-space) 5.351A 5.379B 5.341 5.379D 5.379E 5.380A			1670-1675 5.341 US211 US362	1670-1675 FIXED MOBILE except aeronautical mobile 5.341 US211 US362		Wireless Communications (27)
1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.341			1675-1700 METEOROLOGICAL AIDS (radiosonde) METEOROLOGICAL-SATELLITE (space-to-Earth) 5.289 5.341 US211			
1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) Fixed Mobile except aeronautical mobile 5.289 5.341 5.382	1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) 5.289 5.341 5.381					
1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341		1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341 5.384	1700-1710 FIXED G118 METEOROLOGICAL-SATELLITE (space-to-Earth) 5.289 5.341	1700-1710 METEOROLOGICAL-SATELLITE (space-to-Earth) Fixed 5.289 5.341		
1710-1930 FIXED MOBILE 5.384A 5.388A 5.388B 5.149 5.341 5.385 5.386 5.387 5.388			1710-1755 5.341 US378 US385	1710-1755 FIXED MOBILE 5.341 US378 US385		Wireless Communications (27)
			1755-1850 FIXED MOBILE SPACE OPERATION (Earth-to-space) G42	1755-1850		
1930-1970 FIXED MOBILE 5.388A 5.388B 5.388	1930-1970 FIXED MOBILE 5.388A 5.388B Mobile-satellite (Earth-to-space) 5.388	1930-1970 FIXED MOBILE 5.388A 5.388B 5.388	1850-1980	1850-2000 FIXED MOBILE		RF Devices (15) Personal Communications (24) Fixed Microwave (101)
1970-1980 FIXED MOBILE 5.388A 5.388B 5.388						

1980-2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.351A 5.388 5.389A 5.389B 5.389F			1980-2025	NG177	
				2000-2020 MOBILE-SATELLITE (Earth-to-space) US380 NG156	Satellite Communications (25)
2010-2025 FIXED MOBILE 5.388A 5.388B 5.388	2010-2025 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.388 5.389C 5.389E	2010-2025 FIXED MOBILE 5.388A 5.388B 5.388		2020-2025 FIXED MOBILE NG177	
2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (Earth-to-space) (space-to-space) 5.392			2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) SPACE RESEARCH (Earth-to-space) (space-to-space) 5.391 5.392 US90 US222 US346 US347 US393	2025-2110 FIXED NG118 MOBILE 5.391 5.392 US90 US222 US346 US347 US393	TV Auxiliary Broadcasting (74F) Cable TV Relay (78) Local TV Transmission (101J)
2110-2120 FIXED MOBILE 5.388A 5.388B SPACE RESEARCH (deep space) (Earth-to-space) 5.388			2110-2120 US252	2110-2120 FIXED MOBILE US252	Public Mobile (22) Wireless Communications (27) Fixed Microwave (101)
2120-2170 FIXED MOBILE 5.388A 5.388B 5.388	2120-2160 FIXED MOBILE 5.388A 5.388B Mobile-satellite (space-to-Earth) 5.388 2160-2170 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.388 5.389C 5.389E	2120-2170 FIXED MOBILE 5.388A 5.388B 5.388	2120-2200	2120-2180 FIXED MOBILE NG153 NG178	
2170-2200 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A 5.388 5.389A 5.389F				2180-2200 MOBILE-SATELLITE (space-to-Earth) US380 NG168	Satellite Communications (25)

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
2200-2290 SPACE OPERATION (space-to-Earth) (space-to-space) EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (space-to-Earth) (space-to-space) 5.392			2200-2290 SPACE OPERATION (space-to-Earth) (space-to-space) EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space) FIXED (line-of-sight only) MOBILE (line-of-sight only including aeronautical telemetry, but excluding flight testing of manned aircraft) 5.391 SPACE RESEARCH (space-to-Earth) (space-to-space) 5.392 US303	2200-2290 US303	
2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)			2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)	2290-2300 SPACE RESEARCH (deep space) (space-to-Earth)	
2300-2450 FIXED MOBILE 5.384A Amateur Radiolocation	2300-2450 FIXED MOBILE 5.384A RADIOLOCATION Amateur		2300-2305 G122	2300-2305 Amateur	Amateur Radio (97)
			2305-2310 US338 G122	2305-2310 FIXED MOBILE except aeronautical mobile RADIOLOCATION Amateur US338	Wireless Communications (27) Amateur Radio (97)
			2310-2320 Fixed Mobile US339 Radiolocation G2 US327	2310-2320 FIXED MOBILE US339 BROADCASTING-SATELLITE RADIOLOCATION 5.396 US327	Wireless Communications (27) Aviation (87)
			2320-2345 Fixed Radiolocation G2 US327	2320-2345 BROADCASTING-SATELLITE 5.396 US327	Satellite Communications (25)
			2345-2360 Fixed Mobile US339 Radiolocation G2 US327	2345-2360 FIXED MOBILE US339 BROADCASTING-SATELLITE RADIOLOCATION 5.396 US327	Wireless Communications (27) Aviation (87)
			2360-2390 MOBILE US276 RADIOLOCATION G2 G120 Fixed	2360-2390 MOBILE US276	Aviation (87)

			2390-2395 MOBILE US276	2390-2395 AMATEUR MOBILE US276	Aviation (87) Amateur Radio (97)
			2395-2400 G122	2395-2400 AMATEUR	Amateur Radio (97)
			2400-2417 5.150 G122	2400-2417 AMATEUR 5.150 5.282	ISM Equipment (18) Amateur Radio (97)
5.150 5.282 5.395	5.150 5.282 5.393 5.394 5.396		2417-2450 Radiolocation G2 5.150	2417-2450 Amateur 5.150 5.282	
2450-2483.5 FIXED MOBILE Radiolocation 5.150 5.397	2450-2483.5 FIXED MOBILE RADIOLOCATION 5.150		2450-2483.5 5.150 US41	2450-2483.5 FIXED MOBILE Radiolocation 5.150 US41	ISM Equipment (18) TV Auxiliary Broadcasting (74F) Private Land Mobile (90) Fixed Microwave (101)
2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A Radiolocation 5.150 5.371 5.397 5.398 5.399 5.400 5.402	2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 RADIOLOCATION 5.150 5.402	2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIOLOCATION Radiodetermination-satellite (space-to-Earth) 5.398 5.150 5.400 5.402	2483.5-2500 MOBILE-SATELLITE (space-to-Earth) US319 US380 US391 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402 US41	2483.5-2495 MOBILE-SATELLITE (space-to-Earth) US380 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402 US41 US319 NG147	ISM Equipment (18) Satellite Communications (25)
				2495-2500 FIXED MOBILE except aeronautical mobile MOBILE-SATELLITE (space-to-Earth) US380 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402 US41 US319 US391 NG147	ISM Equipment (18) Satellite Communications (25) Wireless Communications (27)
2500-2520 FIXED 5.410 MOBILE except aeronautical mobile 5.384A 5.405 5.412	2500-2520 FIXED 5.410 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A 5.404	2500-2520 FIXED 5.410 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (space-to-Earth) 5.351A 5.407 5.414 5.414A 5.404 5.415A	2500-2655	2500-2655 FIXED US205 MOBILE except aeronautical mobile	Wireless Communications (27)
2520-2655 FIXED 5.410 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.339 5.405 5.412 5.417C 5.417D 5.418B 5.418C	2520-2655 FIXED 5.410 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.339 5.417C 5.417D 5.418B 5.418C	2520-2535 FIXED 5.410 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.403 5.414A 5.415A 2535-2655 FIXED 5.410 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.339 5.417A 5.417B 5.417C 5.417D 5.418 5.418A 5.418B 5.418C	5.339 US205	5.339	

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
2655-2670 FIXED 5.410 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.208B 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.412	2655-2670 FIXED 5.410 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.208B	2655-2670 FIXED 5.410 FIXED-SATELLITE (Earth-to-space) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.208B 5.420	2655-2690 Earth exploration-satellite (passive) Radio astronomy US385 Space research (passive)	2655-2690 FIXED US205 MOBILE except aeronautical mobile Earth exploration-satellite (passive) Radio astronomy Space research (passive)	Wireless Communications (27)
2670-2690 FIXED 5.410 MOBILE except aeronautical mobile 5.384A Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.412	2670-2690 FIXED 5.410 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.208B 5.415 MOBILE except aeronautical mobile 5.384A Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149	2670-2690 FIXED 5.410 FIXED-SATELLITE (Earth-to-space) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (Earth-to-space) 5.351A 5.419 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149			
2690-2700 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.422			2690-2700 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
2700-2900 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation 5.423 5.424			2700-2900 METEOROLOGICAL AIDS AERONAUTICAL RADIONAVIGATION 5.337 US18 Radiolocation G2 5.423 G15	2700-2900 5.423 US18	Aviation (87)
2900-3100 RADIOLOCATION 5.424A RADIONAVIGATION 5.426 5.425 5.427			2900-3100 RADIOLOCATION 5.424A G56 MARITIME RADIONAVIGATION 5.427 US44 US316	2900-3100 MARITIME RADIONAVIGATION Radiolocation US44 5.427 US316	Maritime (80) Private Land Mobile (90)
3100-3300 RADIOLOCATION Earth exploration-satellite (active) Space research (active) 5.149 5.428			3100-3300 RADIOLOCATION G59 Earth exploration-satellite (active) Space research (active) US342	3100-3300 Earth exploration-satellite (active) Space research (active) Radiolocation US342	Private Land Mobile (90)

3300-3400 RADIOLOCATION 5.149 5.429 5.430	3300-3400 RADIOLOCATION Amateur Fixed Mobile 5.149	3300-3400 RADIOLOCATION Amateur 5.149 5.429	3300-3500 RADIOLOCATION US108 G2 US342	3300-3500 Amateur Radiolocation US108 5.282 US342	Private Land Mobile (90) Amateur Radio (97)
3400-3600 FIXED FIXED-SATELLITE (space-to-Earth) Mobile 5.430A Radiolocation	3400-3500 FIXED FIXED-SATELLITE (space-to-Earth) Amateur Mobile 5.431A Radiolocation 5.433 5.282	3400-3500 FIXED FIXED-SATELLITE (space-to-Earth) Amateur Mobile 5.432B Radiolocation 5.433 5.282 5.432 5.432A			
5.431	3500-3700 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile Radiolocation 5.433	3500-3600 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.433A Radiolocation 5.433	3500-3650 RADIOLOCATION G59 AERONAUTICAL RADIONAVIGATION (ground-based) G110	3500-3600 Radiolocation	Private Land Mobile (90)
3600-4200 FIXED FIXED-SATELLITE (space-to-Earth) Mobile		3600-3700 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile Radiolocation 5.433 5.435	US245 3650-3700 US348 US349	3600-3650 FIXED-SATELLITE (space-to-Earth) US245 Radiolocation 3650-3700 FIXED FIXED-SATELLITE (space-to-Earth) NG169 NG185 MOBILE except aeronautical mobile US348 US349	Satellite Communications (25) Private Land Mobile (90)
	3700-4200 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile		3700-4200	3700-4200 FIXED FIXED-SATELLITE (space-to-Earth) NG180	Satellite Communications (25) Fixed Microwave (101)
4200-4400 AERONAUTICAL RADIONAVIGATION 5.438 5.439 5.440			4200-4400 AERONAUTICAL RADIONAVIGATION 5.440 US261		Aviation (87)
4400-4500 FIXED MOBILE 5.440A			4400-4500 FIXED MOBILE	4400-4500	
4500-4800 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 MOBILE 5.440A			4500-4800 FIXED MOBILE US245	4500-4800 FIXED-SATELLITE (space-to-Earth) 5.441 US245	
4800-4990 FIXED MOBILE 5.440A 5.442 Radio astronomy			4800-4940 FIXED MOBILE US203 US342	4800-4940 US203 US342	
5.149 5.339 5.443			4940-4990 5.339 US342 US385 G122	4940-4990 FIXED MOBILE except aeronautical mobile 5.339 US342 US385	Public Safety Land Mobile (90Y) Page 40

Table of Frequency Allocations — 4990-5925 MHz (SHF) — Page 41

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
4990-5000 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY Space research (passive) 5.149			4990-5000 RADIO ASTRONOMY US74 Space research (passive) US246		
5000-5010 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (Earth-to-space) 5.367			5000-5010 AERONAUTICAL RADIONAVIGATION US260 RADIONAVIGATION-SATELLITE (Earth-to-space) 5.367 US211		Aviation (87)
5010-5030 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.443B 5.367			5010-5030 AERONAUTICAL RADIONAVIGATION US260 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.443B 5.367 US211		
5030-5091 AERONAUTICAL RADIONAVIGATION 5.367 5.444			5030-5091 AERONAUTICAL RADIONAVIGATION US260 5.367 US211 US444		
5091-5150 AERONAUTICAL RADIONAVIGATION AERONAUTICAL MOBILE 5.444B 5.367 5.444 5.444A			5091-5150 AERONAUTICAL RADIONAVIGATION US260 5.367 US211 US344 US444 US444A		Satellite Communications (25) Aviation (87)
5150-5250 AERONAUTICAL RADIONAVIGATION FIXED-SATELLITE (Earth-to-space) 5.447A MOBILE except aeronautical mobile 5.446A 5.446B 5.446 5.446C 5.447 5.447B 5.447C			5150-5250 AERONAUTICAL RADIONAVIGATION US260 US211 US307 US344	5150-5250 AERONAUTICAL RADIONAVIGATION US260 FIXED-SATELLITE (Earth-to-space) 5.447A US344 5.447C US211 US307	RF Devices (15) Satellite Communications (25) Aviation (87)
5250-5255 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.447D MOBILE except aeronautical mobile 5.446A 5.447F 5.447E 5.448 5.448A			5250-5255 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active) 5.447D 5.448A	5250-5255 Earth exploration-satellite (active) Radiolocation Space research	RF Devices (15) Private Land Mobile (90)
5255-5350 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) MOBILE except aeronautical mobile 5.446A 5.447F 5.447E 5.448 5.448A			5255-5350 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active) 5.448A	5255-5350 Earth exploration-satellite (active) Radiolocation Space research (active) 5.448A	
5350-5460 EARTH EXPLORATION-SATELLITE (active) 5.448B SPACE RESEARCH (active) 5.448C AERONAUTICAL RADIONAVIGATION 5.449 RADIOLOCATION 5.448D			5350-5460 EARTH EXPLORATION-SATELLITE (active) 5.448B SPACE RESEARCH (active) AERONAUTICAL RADIONAVIGATION 5.449 RADIOLOCATION G56 US390 G130	5350-5460 AERONAUTICAL RADIONAVIGATION 5.449 Earth exploration-satellite (active) 5.448B Space research (active) Radiolocation US390	Aviation (87) Private Land Mobile (90)

5460-5470 RADIONAVIGATION 5.449 EARTH EXPLORATION-SATELLITE (active) SPACE RESEARCH (active) RADIOLOCATION 5.448D 5.448B			5460-5470 RADIONAVIGATION 5.449 US65 EARTH EXPLORATION-SATELLITE (active) SPACE RESEARCH (active) RADIOLOCATION G56 5.448B US49 G130	5460-5470 RADIONAVIGATION 5.449 US65 Earth exploration-satellite (active) Space research (active) Radiolocation 5.448B US49	Maritime (80) Aviation (87) Private Land Mobile (90)
5470-5570 MARITIME RADIONAVIGATION MOBILE except aeronautical mobile 5.446A 5.450A EARTH EXPLORATION-SATELLITE (active) SPACE RESEARCH (active) RADIOLOCATION 5.450B 5.448B 5.450 5.451			5470-5570 MARITIME RADIONAVIGATION US65 EARTH EXPLORATION-SATELLITE (active) SPACE RESEARCH (active) RADIOLOCATION G56 5.448B US50 G131	5470-5570 MARITIME RADIONAVIGATION US65 RADIOLOCATION Earth exploration-satellite (active) Space research (active) US50	RF Devices (15) Maritime (80) Private Land Mobile (90)
5570-5650 MARITIME RADIONAVIGATION MOBILE except aeronautical mobile 5.446A 5.450A RADIOLOCATION 5.450B 5.450 5.451 5.452			5570-5600 MARITIME RADIONAVIGATION US65 RADIOLOCATION G56 US50 G131	5570-5600 MARITIME RADIONAVIGATION US65 RADIOLOCATION US50	
			5600-5650 MARITIME RADIONAVIGATION US65 METEOROLOGICAL AIDS RADIOLOCATION G56 5.452 US50 G131	5600-5650 MARITIME RADIONAVIGATION US65 METEOROLOGICAL AIDS RADIOLOCATION 5.452 US50	
5650-5725 MOBILE except aeronautical mobile 5.446A 5.450A RADIOLOCATION Amateur Space research (deep space) 5.282 5.451 5.453 5.454 5.455			5650-5925 RADIOLOCATION G2	5650-5830 Amateur 5.150 5.282	RF Devices (15) ISM Equipment (18) Amateur Radio (97)
5725-5830 FIXED-SATELLITE (Earth-to-space) RADIOLOCATION Amateur 5.150 5.451 5.453 5.455 5.456	5725-5830 RADIOLOCATION Amateur 5.150 5.453 5.455				
5830-5850 FIXED-SATELLITE (Earth-to-space) RADIOLOCATION Amateur Amateur-satellite (space-to-Earth) 5.150 5.451 5.453 5.455 5.456	5830-5850 RADIOLOCATION Amateur Amateur-satellite (space-to-Earth) 5.150 5.453 5.455			5830-5850 Amateur Amateur-satellite (space-to-Earth) 5.150	
5850-5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.150	5850-5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Amateur Radiolocation 5.150	5850-5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Radiolocation 5.150	5.150 US245	5850-5925 FIXED-SATELLITE (Earth-to-space) US245 MOBILE NG160 Amateur 5.150	ISM Equipment (18) Private Land Mobile (90) Personal Radio (95) Amateur Radio (97)

Table of Frequency Allocations			5925-8025 MHz (SHF)		Page 43
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
5925-6700 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B MOBILE 5.457C 5.149 5.440 5.458			5925-6425 6425-6525 5.440 5.458	5925-6425 FIXED FIXED-SATELLITE (Earth-to-space) NG181 6425-6525 FIXED-SATELLITE (Earth-to-space) MOBILE 5.440 5.458	Satellite Communications (25) Fixed Microwave (101) TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
			6525-6700 5.458 US342	6525-6700 FIXED FIXED-SATELLITE (Earth-to-space) 5.458 US342	Fixed Microwave (101)
6700-7075 FIXED FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441 MOBILE 5.458 5.458A 5.458B 5.458C			6700-7125	6700-6875 FIXED FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441 5.458 5.458A 5.458B	Satellite Communications (25) Fixed Microwave (101)
				6875-7025 FIXED NG118 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441 MOBILE NG171 5.458 5.458A 5.458B	Satellite Communications (25) TV Broadcast Auxiliary (74F) Cable TV Relay (78)
				7025-7075 FIXED NG118 FIXED-SATELLITE (Earth-to-space) NG172 MOBILE NG171 5.458 5.458A 5.458B	TV Broadcast Auxiliary (74F) Cable TV Relay (78)
7075-7145 FIXED MOBILE 5.458 5.459			5.458	7075-7125 FIXED NG118 MOBILE NG171 5.458	
			7125-7145 FIXED 5.458 G116	7125-7235	
7145-7235 FIXED MOBILE SPACE RESEARCH (Earth-to-space) 5.460 5.458 5.459			7145-7190 FIXED SPACE RESEARCH (deep space) (Earth-to-space) US262 5.458 G116		
			7190-7235 FIXED SPACE RESEARCH (Earth-to-space) G133 5.458 G134	5.458 US262	

7235-7250 FIXED MOBILE 5.458	7235-7250 FIXED 5.458	7235-7250 5.458	
7250-7300 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE 5.461	7250-7300 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Fixed G117	7250-8025	
7300-7450 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.461	7300-7450 FIXED FIXED-SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G117		
7450-7550 FIXED FIXED-SATELLITE (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.461A	7450-7550 FIXED FIXED-SATELLITE (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G104 G117		
7550-7750 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile	7550-7750 FIXED FIXED-SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G117		
7750-7850 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) 5.461B MOBILE except aeronautical mobile	7750-7850 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) 5.461B		
7850-7900 FIXED MOBILE except aeronautical mobile	7850-7900 FIXED		
7900-8025 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.461	7900-8025 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Fixed G117		Page 44

Table of Frequency Allocations			8025-10000 MHz (SHF)		Page 45
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
8025-8175 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.463 5.462A			8025-8175 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) (no airborne transmissions) US258 G117	8025-8400	
8175-8215 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) MOBILE 5.463 5.462A			8175-8215 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) (no airborne transmissions) US258 G104 G117		
8215-8400 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.463 5.462A			8215-8400 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) (no airborne transmissions) US258 G117	US258	
8400-8500 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-Earth) 5.465 5.466			8400-8450 FIXED SPACE RESEARCH (deep space) (space-to-Earth)	8400-8450 Space research (deep space) (space-to-Earth)	
			8450-8500 FIXED SPACE RESEARCH (space-to-Earth)	8450-8500 SPACE RESEARCH (space-to-Earth)	
8500-8550 RADIOLOCATION 5.468 5.469			8500-8550 RADIOLOCATION G59	8500-8550 Radiolocation	Private Land Mobile (90)
8550-8650 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.468 5.469 5.469A			8550-8650 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active)	8550-8650 Earth exploration-satellite (active) Radiolocation Space research (active)	

8650-8750 RADIOLOCATION 5.468 5.469	8650-9000 RADIOLOCATION G59	8650-9000 Radiolocation	Aviation (87) Private Land Mobile (90)
8750-8850 RADIOLOCATION AERONAUTICAL RADIONAVIGATION 5.470 5.471			
8850-9000 RADIOLOCATION MARITIME RADIONAVIGATION 5.472 5.473	US53	US53	
9000-9200 AERONAUTICAL RADIONAVIGATION 5.337 RADIOLOCATION 5.471 5.473A	9000-9200 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation G2 US48 G19	9000-9200 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation US48	
9200-9300 RADIOLOCATION MARITIME RADIONAVIGATION 5.472 5.473 5.474	9200-9300 MARITIME RADIONAVIGATION 5.472 Radiolocation US110 G59 5.474	9200-9300 MARITIME RADIONAVIGATION 5.472 Radiolocation US110 5.474	Maritime (80) Private Land Mobile (90)
9300-9500 EARTH EXPLORATION-SATELLITE (active) SPACE RESEARCH (active) RADIOLOCATION RADIONAVIGATION 5.427 5.474 5.475 5.475A 5.475B 5.476A	9300-9500 RADIONAVIGATION US66 Radiolocation US51 G56 Meteorological aids 5.427 5.474 US67 US71	9300-9500 RADIONAVIGATION US66 Radiolocation US51 Meteorological aids 5.427 5.474 US67 US71	Maritime (80) Aviation (87) Private Land Mobile (90)
9500-9800 EARTH EXPLORATION-SATELLITE (active) SPACE RESEARCH (active) RADIOLOCATION RADIONAVIGATION 5.476A	9500-9800 EARTH EXPLORATION-SATELLITE (active) SPACE RESEARCH (active) RADIOLOCATION	9500-9800 Earth exploration-satellite (active) Space research (active) Radiolocation	Private Land Mobile (90)
9800-9900 RADIOLOCATION Earth exploration-satellite (active) Space research (active) Fixed 5.477 5.478 5.478A 5.478B	9800-10000 RADIOLOCATION	9800-10000 Radiolocation	
9900-10000 RADIOLOCATION Fixed 5.477 5.478 5.479	5.479	5.479	Page 46

Table of Frequency Allocations			10-14 GHz (SHF)		Page 47
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
10-10.45 FIXED MOBILE RADIOLOCATION Amateur 5.479	10-10.45 RADIOLOCATION Amateur 5.479 5.480	10-10.45 FIXED MOBILE RADIOLOCATION Amateur 5.479	10-10.45 RADIOLOCATION US58 US108 G2 5.479	10-10.45 Amateur Radiolocation US108 5.479 US58 NG42	Private Land Mobile (90) Amateur Radio (97)
10.45-10.5 RADIOLOCATION Amateur Amateur-satellite 5.481				10.45-10.5 Amateur Amateur-satellite Radiolocation US108 US58 NG42	
10.5-10.55 FIXED MOBILE Radiolocation	10.5-10.55 FIXED MOBILE RADIOLOCATION		10.5-10.55 RADIOLOCATION US59		Private Land Mobile (90)
10.55-10.6 FIXED MOBILE except aeronautical mobile Radiolocation			10.55-10.6	10.55-10.6 FIXED	Fixed Microwave (101)
10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) Radiolocation 5.149 5.482 5.482A			10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US265 US277	10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED US265 SPACE RESEARCH (passive) US277	
10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.483			10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246 US355		
10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 5.484A (Earth-to-space) 5.484 MOBILE except aeronautical mobile	10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 5.484A MOBILE except aeronautical mobile		10.7-11.7 US211	10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 US211 US355 NG104 NG182 NG186	Satellite Communications (25) Fixed Microwave (101)
11.7-12.5 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 5.492	11.7-12.1 FIXED 5.486 FIXED-SATELLITE (space-to-Earth) 5.484A 5.488 Mobile except aeronautical mobile 5.485 12.1-12.2 FIXED-SATELLITE (space-to-Earth) 5.484A 5.488 5.485 5.489	11.7-12.2 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 5.492 5.487 5.487A	11.7-12.2	11.7-12.2 FIXED-SATELLITE (space-to-Earth) 5.485 5.488 NG143 NG183 NG187 NG184	Satellite Communications (25)

5.487 5.487A	12.2-12.7 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 5.492 5.487A 5.488 5.490	12.2-12.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile BROADCASTING 5.484A 5.487	12.2-12.75	12.2-12.7 FIXED BROADCASTING-SATELLITE 5.487A 5.488 5.490	Satellite Communications (25) Fixed Microwave (101)
12.5-12.75 FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.494 5.495 5.496	12.7-12.75 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile	12.5-12.75 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE except aeronautical mobile BROADCASTING-SATELLITE 5.493		12.7-12.75 FIXED NG118 FIXED-SATELLITE (Earth-to-space) MOBILE	TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
12.75-13.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.441 MOBILE Space research (deep space) (space-to-Earth)			12.75-13.25 US251	12.75-13.25 FIXED NG118 FIXED-SATELLITE (Earth-to-space) 5.441 NG104 MOBILE US251 NG53	Satellite Communications (25) TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
13.25-13.4 EARTH EXPLORATION-SATELLITE (active) AERONAUTICAL RADIONAVIGATION 5.497 SPACE RESEARCH (active) 5.498A 5.499			13.25-13.4 EARTH EXPLORATION-SATELLITE (active) AERONAUTICAL RADIONAVIGATION 5.497 SPACE RESEARCH (active) 5.498A	13.25-13.4 AERONAUTICAL RADIONAVIGATION 5.497 Earth exploration-satellite (active) Space research (active)	Aviation (87)
13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.499 5.500 5.501 5.501B			13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.501B	13.4-13.75 Earth exploration-satellite (active) Radiolocation Space research Standard frequency and time signal-satellite (Earth-to-space)	Private Land Mobile (90)
13.75-14 FIXED-SATELLITE (Earth-to-space) 5.484A RADIOLOCATION Earth exploration-satellite Standard frequency and time signal-satellite (Earth-to-space) Space research 5.499 5.500 5.501 5.502 5.503			13.75-14 RADIOLOCATION G59 Standard frequency and time signal-satellite (Earth-to-space) Space research US337 US356 US357	13.75-14 FIXED-SATELLITE (Earth-to-space) US337 Standard frequency and time signal-satellite (Earth-to-space) Space research Radiolocation US356 US357	Satellite Communications (25) Private Land Mobile (90) Page 48

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
14-14.25 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.504B 5.504C 5.506A Space research 5.504A 5.505			14-14.2 Space research	14-14.2 FIXED-SATELLITE (Earth-to-space) NG183 NG187 Mobile-satellite (Earth-to-space) Space research	Satellite Communications (25)
14.25-14.3 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.508A Space research 5.504A 5.505 5.508			14.2-14.4	14.2-14.47 FIXED-SATELLITE (Earth-to-space) NG183 NG187 Mobile-satellite (Earth-to-space)	
14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Radionavigation-satellite 5.504A	14.3-14.4 FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.506 5.506B Mobile-satellite (Earth-to-space) 5.506A Radionavigation-satellite 5.504A	14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Radionavigation-satellite 5.504A			
14.4-14.47 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Space research (space-to-Earth) 5.504A			14.4-14.47 Fixed Mobile	NG184	
14.47-14.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Radio astronomy 5.149 5.504A			14.47-14.5 Fixed Mobile US203 US342	14.47-14.5 FIXED-SATELLITE (Earth-to-space) NG183 NG187 Mobile-satellite (Earth-to-space) US203 US342	
14.5-14.8 FIXED FIXED-SATELLITE (Earth-to-space) 5.510 MOBILE Space research			14.5-14.7145 FIXED Mobile Space research 14.7145-14.8 MOBILE Fixed Space research	14.5-14.8	
14.8-15.35 FIXED MOBILE Space research			14.8-15.1365 MOBILE SPACE RESEARCH Fixed US310	14.8-15.1365 US310	

5.339			15.1365-15.35 FIXED SPACE RESEARCH Mobile 5.339 US211	15.1365-15.35 5.339 US211	
15.35-15.4 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.511			15.35-15.4 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
15.4-15.43 AERONAUTICAL RADIONAVIGATION 5.511D			15.4-15.43 AERONAUTICAL RADIONAVIGATION US260 US211		Aviation (87)
15.43-15.63 FIXED-SATELLITE (Earth-to-space) 5.511A AERONAUTICAL RADIONAVIGATION 5.511C			15.43-15.63 AERONAUTICAL RADIONAVIGATION US260 5.511C US211 US359	15.43-15.63 FIXED-SATELLITE (Earth-to-space) AERONAUTICAL RADIONAVIGATION US260 5.511C US211 US359	Satellite Communications (25) Aviation (87)
15.63-15.7 AERONAUTICAL RADIONAVIGATION 5.511D			15.63-15.7 AERONAUTICAL RADIONAVIGATION US260 US211		Aviation (87)
15.7-16.6 RADIOLOCATION 5.512 5.513			15.7-16.6 RADIOLOCATION G59	15.7-17.2 Radiolocation	Private Land Mobile (90)
16.6-17.1 RADIOLOCATION Space research (deep space) (Earth-to-space) 5.512 5.513			16.6-17.1 RADIOLOCATION G59 Space research (deep space) (Earth-to-space)		
17.1-17.2 RADIOLOCATION 5.512 5.513			17.1-17.2 RADIOLOCATION G59		
17.2-17.3 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.512 5.513 5.513A			17.2-17.3 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active)	17.2-17.3 Earth exploration-satellite (active) Radiolocation Space research (active)	
17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 (space-to-Earth) 5.516A 5.516B Radiolocation 5.514	17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 BROADCASTING-SATELLITE Radiolocation 5.514 5.515	17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 Radiolocation 5.514	17.3-17.7 Radiolocation US259 G59 US402 G117	17.3-17.7 FIXED-SATELLITE (Earth-to-space) US271 BROADCASTING-SATELLITE US402 NG163 US259	Satellite Communications (25) Page 50

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
17.7-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE	17.7-17.8 FIXED FIXED-SATELLITE (space-to-Earth) 5.517 (Earth-to-space) 5.516 BROADCASTING-SATELLITE Mobile 5.515	17.7-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE	17.7-17.8 US401	17.7-17.8 FIXED NG144 FIXED-SATELLITE (Earth-to-space) US271 US401	Satellite Communications (25) TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
	17.8-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE 5.519		17.8-18.3 FIXED-SATELLITE (space-to-Earth) US334 G117 US519	17.8-18.3 FIXED NG144 US519 US334	TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
18.1-18.4 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B (Earth-to-space) 5.520 MOBILE 5.519 5.521			18.3-18.6 FIXED-SATELLITE (space-to-Earth) US334 G117	18.3-18.6 FIXED-SATELLITE (space-to-Earth) NG164 US334 NG144	Satellite Communications (25)
18.4-18.6 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B MOBILE					
18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile Space research (passive) 5.522A 5.522C	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.516B 5.522B MOBILE except aeronautical mobile SPACE RESEARCH (passive) 5.522A	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile Space research (passive) 5.522A	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 US334 G117 SPACE RESEARCH (passive) US254	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 NG164 SPACE RESEARCH (passive) US254 US334 NG144	
18.8-19.3 FIXED FIXED-SATELLITE (space-to-Earth) 5.516B 5.523A MOBILE			18.8-20.2 FIXED-SATELLITE (space-to-Earth) US334 G117	18.8-19.3 FIXED-SATELLITE (space-to-Earth) NG165 US334 NG144	
19.3-19.7 FIXED FIXED-SATELLITE (space-to-Earth) (Earth-to-space) 5.523B 5.523C 5.523D 5.523E MOBILE				19.3-19.7 FIXED NG144 FIXED-SATELLITE (space-to-Earth) NG166 US334	Satellite Communications (25) TV Broadc't Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B Mobile-satellite (space-to-Earth) 5.524	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528 5.529	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B Mobile-satellite (space-to-Earth) 5.524		19.7-20.1 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.525 5.526 5.527 5.528 5.529 US334	Satellite Communications (25)

20.1-20.2 FIXED-SATELLITE (space-to-Earth) 5.484A 5.516B MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528				20.1-20.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.525 5.526 5.527 5.528 US334	
20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) 5.524			20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) G117	20.2-21.2 Standard frequency and time signal-satellite (space-to-Earth)	
21.2-21.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)			21.2-21.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263		Fixed Microwave (101)
21.4-22 FIXED MOBILE BROADCASTING-SATELLITE 5.208B 5.530	21.4-22 FIXED MOBILE	21.4-22 FIXED MOBILE BROADCASTING-SATELLITE 5.208B 5.530 5.531	21.4-22 FIXED MOBILE		
22-22.21 FIXED MOBILE except aeronautical mobile 5.149			22-22.21 FIXED MOBILE except aeronautical mobile US342		
22.21-22.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) 5.149 5.532			22.21-22.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) US263 US342		
22.5-22.55 FIXED MOBILE			22.5-22.55 FIXED MOBILE US211		
22.55-23.55 FIXED INTER-SATELLITE 5.338A MOBILE 5.149			22.55-23.55 FIXED INTER-SATELLITE US278 MOBILE US342		Satellite Communications (25) Fixed Microwave (101)
23.55-23.6 FIXED MOBILE			23.55-23.6 FIXED MOBILE		Fixed Microwave (101)

Table of Frequency Allocations		23.6-30 GHz (SHF)			Page 53
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
23.6-24 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			23.6-24 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
24-24.05 AMATEUR AMATEUR-SATELLITE 5.150			24-24.05 5.150 US211	24-24.05 AMATEUR AMATEUR-SATELLITE 5.150 US211	ISM Equipment (18) Amateur Radio (97)
24.05-24.25 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.150			24.05-24.25 RADIOLOCATION G59 Earth exploration-satellite (active) 5.150	24.05-24.25 Amateur Earth exploration-satellite (active) Radiolocation 5.150	ISM Equipment (18) Private Land Mobile (90) Amateur Radio (97)
24.25-24.45 FIXED	24.25-24.45 RADIONAVIGATION	24.25-24.45 RADIONAVIGATION FIXED MOBILE	24.25-24.45	24.25-24.45 FIXED	Fixed Microwave (101)
24.45-24.75 FIXED INTER-SATELLITE	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533	24.45-24.65 FIXED INTER-SATELLITE MOBILE RADIONAVIGATION 5.533	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533		Satellite Communications (25)
	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SATELLITE (Earth-to-space)	24.65-24.75 FIXED INTER-SATELLITE MOBILE 5.533	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SATELLITE (Earth-to-space)		
24.75-25.25 FIXED	24.75-25.25 FIXED-SATELLITE (Earth-to-space) 5.535	24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.535 MOBILE	24.75-25.05 RADIONAVIGATION	24.75-25.05 FIXED-SATELLITE (Earth-to-space) NG167 RADIONAVIGATION	Satellite Communications (25) Aviation (87)
			25.05-25.25	25.05-25.25 FIXED FIXED-SATELLITE (Earth-to-space) NG167	Satellite Communications (25) Fixed Microwave (101)
25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)			25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)	25.25-25.5 Inter-satellite 5.536 Standard frequency and time signal-satellite (Earth-to-space)	

25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) 5.536B FIXED INTER-SATELLITE 5.536 MOBILE SPACE RESEARCH (space-to-Earth) 5.536C Standard frequency and time signal-satellite (Earth-to-space) 5.536A			25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED INTER-SATELLITE 5.536 MOBILE SPACE RESEARCH (space-to-Earth) Standard frequency and time signal-satellite (Earth-to-space) 5.536A US258	25.5-27 Inter-satellite 5.536 Standard frequency and time signal-satellite (Earth-to-space) 5.536A US258	
27-27.5 FIXED INTER-SATELLITE 5.536 MOBILE	27-27.5 FIXED FIXED-SATELLITE (Earth-to-space) INTER-SATELLITE 5.536 5.537 MOBILE		27-27.5 FIXED INTER-SATELLITE 5.536 MOBILE	27-27.5 Inter-satellite 5.536	
27.5-28.5 FIXED 5.537A FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 MOBILE 5.538 5.540			27.5-30	27.5-29.5 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE	Satellite Communications (25) Fixed Microwave (101)
28.5-29.1 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.523A 5.539 MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540					
29.1-29.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.516B 5.523C 5.523E 5.535A 5.539 5.541A MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540					
29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.525 5.526 5.527 5.529 5.540 5.542	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542		29.5-29.9 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) 5.525 5.526 5.527 5.529	Satellite Communications (25)
29.9-30 FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.543 5.525 5.526 5.527 5.538 5.540 5.542				29.9-30 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) 5.525 5.526 5.527 5.543	Page 54

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
30-31 FIXED-SATELLITE (Earth-to-space) 5.338A MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) 5.542			30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) G117	30-31 Standard frequency and time signal-satellite (space-to-Earth)	
31-31.3 FIXED 5.338A 5.543A MOBILE Standard frequency and time signal-satellite (space-to-Earth) Space research 5.544 5.545 5.149			31-31.3 Standard frequency and time signal-satellite (space-to-Earth) US211 US342	31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space-to-Earth) US211 US342	Fixed Microwave (101)
31.3-31.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			31.3-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149 5.546	31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149			
31.8-32 FIXED 5.547A RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth) 5.547 5.547B 5.548			31.8-32.3 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548 US211	31.8-32.3 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548 US211	
32-32.3 FIXED 5.547A RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth) 5.547 5.547C 5.548					
32.3-33 FIXED 5.547A INTER-SATELLITE RADIONAVIGATION 5.547 5.547D 5.548			32.3-33 INTER-SATELLITE US278 RADIONAVIGATION US69 5.548		Aviation (87)
33-33.4 FIXED 5.547A RADIONAVIGATION 5.547 5.547E			33-33.4 RADIONAVIGATION US69 US360 G117		

33.4-34.2 RADIOLOCATION 5.549	33.4-34.2 RADIOLOCATION US360 G117	33.4-34.2 Radiolocation US360	Private Land Mobile (90)
34.2-34.7 RADIOLOCATION SPACE RESEARCH (deep space) (Earth-to-space) 5.549	34.2-34.7 RADIOLOCATION SPACE RESEARCH (deep space) (Earth-to-space) US262 US360 G34 G117	34.2-34.7 Radiolocation Space research (deep space) (Earth-to-space) US262 US360	
34.7-35.2 RADIOLOCATION Space research 5.550 5.549	34.7-35.5 RADIOLOCATION	34.7-35.5 Radiolocation	
35.2-35.5 METEOROLOGICAL AIDS RADIOLOCATION 5.549	US360 G117	US360	
35.5-36 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.549 5.549A	35.5-36 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) US360 G117	35.5-36 Earth exploration-satellite (active) Radiolocation Space research (active) US360	
36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) 5.149 5.550A	36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263 US342		
37-37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth) 5.547	37-38 FIXED MOBILE SPACE RESEARCH (space-to-Earth)	37-37.5 FIXED MOBILE	
37.5-38 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth exploration-satellite (space-to-Earth) 5.547		37.5-38.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE	Satellite Communications (25)
38-39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth exploration-satellite (space-to-Earth) 5.547	38-38.6 FIXED MOBILE 38.6-39.5	38.6-39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE NG175	Satellite Communications (25) Fixed Microwave (101)

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) 5.516B MOBILE MOBILE-SATELLITE (space-to-Earth) Earth exploration-satellite (space-to-Earth) 5.547			39.5-40 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US382 G117	39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE NG175 US382	Satellite Communications (25) Fixed Microwave (101)
40-40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED FIXED-SATELLITE (space-to-Earth) 5.516B MOBILE MOBILE-SATELLITE (space-to-Earth) SPACE RESEARCH (Earth-to-space) Earth exploration-satellite (space-to-Earth)			40-40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) SPACE RESEARCH (Earth-to-space) Earth exploration-satellite (space-to-Earth) G117	40-40.5 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth)	Satellite Communications (25)
40.5-41 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING BROADCASTING-SATELLITE Mobile 5.547	40.5-41 FIXED FIXED-SATELLITE (space-to-Earth) 5.516B BROADCASTING BROADCASTING-SATELLITE Mobile Mobile-satellite (space-to-Earth) 5.547	40.5-41 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING BROADCASTING-SATELLITE Mobile 5.547	40.5-41 FIXED-SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) US211 G117	40.5-41 FIXED-SATELLITE (space-to-Earth) BROADCASTING BROADCASTING-SATELLITE Fixed Mobile Mobile-satellite (space-to-Earth) US211	
41-42.5 FIXED FIXED-SATELLITE (space-to-Earth) 5.516B BROADCASTING BROADCASTING-SATELLITE Mobile 5.547 5.551F 5.551H 5.551I			41-42.5 US211	41-42 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE US211	
				42-42.5 FIXED MOBILE BROADCASTING BROADCASTING-SATELLITE US211	
42.5-43.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149 5.547			42.5-43.5 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile RADIO ASTRONOMY US342	42.5-43.5 RADIO ASTRONOMY US342	

43.5-47 MOBILE 5.553 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554		43.5-45.5 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) G117	43.5-45.5	
		45.5-46.9 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIONAVIGATION-SATELLITE 5.554		RF Devices (15)
		46.9-47 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIONAVIGATION-SATELLITE 5.554	46.9-47 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) RADIONAVIGATION-SATELLITE 5.554	
47-47.2 AMATEUR AMATEUR-SATELLITE		47-48.2	47-47.2 AMATEUR AMATEUR-SATELLITE	Amateur Radio (97)
47.2-47.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE 5.552A			47.2-48.2 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE	Satellite Communications (25)
47.5-47.9 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 (space-to-Earth) 5.516B 5.554A MOBILE	47.5-47.9 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE			
47.9-48.2 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE 5.552A				
48.2-48.54 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 (space-to-Earth) 5.516B 5.554A 5.555B MOBILE	48.2-50.2 FIXED FIXED-SATELLITE (Earth-to-space) 5.338A 5.516B 5.552 MOBILE	48.2-50.2 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE US264		
48.54-49.44 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE 5.149 5.340 5.555				
	5.149 5.340 5.555	5.555 US342		Page 58

Table of Frequency Allocations			50.2-71 GHz (EHF)		Page 59
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
49.44-50.2 FIXED FIXED-SATELLITE (Earth-to-space) 5.338A 5.552 (space-to-Earth) 5.516B 5.554A 5.555B MOBILE	(See previous page)		(See previous page)		
50.2-50.4 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) 5.340			50.2-50.4 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US246		
50.4-51.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.338A MOBILE Mobile-satellite (Earth-to-space)			50.4-51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE MOBILE-SATELLITE (Earth-to-space) G117	50.4-51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE MOBILE-SATELLITE (Earth-to-space)	
51.4-52.6 FIXED 5.338A MOBILE 5.547 5.556			51.4-52.6 FIXED MOBILE		
52.6-54.25 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) 5.340 5.556			52.6-54.25 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US246		
54.25-55.78 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.556A SPACE RESEARCH (passive) 5.556B			54.25-55.78 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.556A SPACE RESEARCH (passive)		Satellite Communications (25)
55.78-56.9 EARTH EXPLORATION-SATELLITE (passive) FIXED 5.557A INTER-SATELLITE 5.556A MOBILE 5.558 SPACE RESEARCH (passive) 5.547 5.557			55.78-56.9 EARTH EXPLORATION-SATELLITE (passive) FIXED US379 INTER-SATELLITE 5.556A MOBILE 5.558 SPACE RESEARCH (passive) US263 US353		
56.9-57 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.558A MOBILE 5.558 SPACE RESEARCH (passive) 5.547 5.557			56.9-57 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE G128 MOBILE 5.558 SPACE RESEARCH (passive) US263	56.9-57 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE 5.558 SPACE RESEARCH (passive) US263	

57-58.2 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.556A MOBILE 5.558 SPACE RESEARCH (passive) 5.547 5.557	57-58.2 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.556A MOBILE 5.558 SPACE RESEARCH (passive) US263		RF Devices (15) Satellite Communications (25)
58.2-59 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) 5.547 5.556	58.2-59 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US353 US354		RF Devices (15)
59-59.3 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.556A MOBILE 5.558 RADIOLOCATION 5.559 SPACE RESEARCH (passive)	59-59.3 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE 5.556A MOBILE 5.558 RADIOLOCATION 5.559 SPACE RESEARCH (passive) US353	59-59.3 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE 5.558 RADIOLOCATION 5.559 SPACE RESEARCH (passive) US353	
59.3-64 FIXED INTER-SATELLITE MOBILE 5.558 RADIOLOCATION 5.559 5.138	59.3-64 FIXED INTER-SATELLITE MOBILE 5.558 RADIOLOCATION 5.559 5.138 US353	59.3-64 FIXED MOBILE 5.558 RADIOLOCATION 5.559 5.138 US353	RF Devices (15) ISM Equipment (18)
64-65 FIXED INTER-SATELLITE MOBILE except aeronautical mobile 5.547 5.556	64-65 FIXED INTER-SATELLITE MOBILE except aeronautical mobile	64-65 FIXED MOBILE except aeronautical mobile	
65-66 EARTH EXPLORATION-SATELLITE FIXED INTER-SATELLITE MOBILE except aeronautical mobile SPACE RESEARCH 5.547	65-66 EARTH EXPLORATION-SATELLITE FIXED MOBILE except aeronautical mobile SPACE RESEARCH	65-66 EARTH EXPLORATION-SATELLITE FIXED INTER-SATELLITE MOBILE except aeronautical mobile SPACE RESEARCH	Satellite Communications (25)
66-71 INTER-SATELLITE MOBILE 5.553 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554	66-71 MOBILE 5.553 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554	66-71 INTER-SATELLITE MOBILE 5.553 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554	Page 60

Table of Frequency Allocations			71-100 GHz (EHF)		Page 61
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
71-74 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)			71-74 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) US389		Fixed Microwave (101)
74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE Space research (space-to-Earth) 5.561			74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Space research (space-to-Earth) US389	74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE Space research (space-to-Earth) US389	
76-77.5 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.149			76-77.5 RADIO ASTRONOMY RADIOLOCATION Space research (space-to-Earth) US342	76-77 RADIO ASTRONOMY RADIOLOCATION Amateur Space research (space-to-Earth) US342	RF Devices (15)
				77-77.5 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) US342	Amateur Radio (97)
77.5-78 AMATEUR AMATEUR-SATELLITE Radio astronomy Space research (space-to-Earth) 5.149			77.5-78 Radio astronomy Space research (space-to-Earth) US342	77.5-78 AMATEUR AMATEUR-SATELLITE Radio astronomy Space research (space-to-Earth) US342	
78-79 RADIOLOCATION Amateur Amateur-satellite Radio astronomy Space research (space-to-Earth) 5.149 5.560			78-79 RADIO ASTRONOMY RADIOLOCATION Space research (space-to-Earth) 5.560 US342	78-79 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.560 US342	
79-81 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.149			79-81 RADIO ASTRONOMY RADIOLOCATION Space research (space-to-Earth) US342	79-81 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) US342	

81-84 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY Space research (space-to-Earth) 5.149 5.561A	81-84 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY Space research (space-to-Earth) US342 US388 US389		Fixed Microwave (101)
84-86 FIXED FIXED-SATELLITE (Earth-to-space) 5.561B MOBILE RADIO ASTRONOMY 5.149	84-86 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY US342 US388 US389		
86-92 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	86-92 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
92-94 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149	92-94 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION US342 US388		RF Devices (15) Fixed Microwave (101)
94-94.1 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) Radio astronomy 5.562 5.562A	94-94.1 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) Radio astronomy 5.562 5.562A	94-94.1 RADIOLOCATION Radio astronomy 5.562A	RF Devices (15)
94.1-95 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149	94.1-95 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION US342 US388		RF Devices (15) Fixed Microwave (101)
95-100 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.149 5.554	95-100 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554 US342		Page 62

Table of Frequency Allocations			100-155.5 GHz (EHF)		Page 63
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
100-102 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341			100-102 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246		
102-105 FIXED MOBILE RADIO ASTRONOMY 5.149 5.341			102-105 FIXED MOBILE RADIO ASTRONOMY 5.341 US342		
105-109.5 FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.149 5.341			105-109.5 FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.341 US342		
109.5-111.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341			109.5-111.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246		
111.8-114.25 FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.149 5.341			111.8-114.25 FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.341 US342		
114.25-116 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341			114.25-116 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246		
116-119.98 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562C SPACE RESEARCH (passive) 5.341			116-122.25 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562C SPACE RESEARCH (passive)		ISM Equipment (18)
119.98-122.25 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562C SPACE RESEARCH (passive) 5.138 5.341			5.138 5.341 US211		

122.25-123 FIXED INTER-SATELLITE MOBILE 5.558 Amateur 5.138	122.25-123 FIXED INTER-SATELLITE MOBILE 5.558 5.138	122.25-123 FIXED INTER-SATELLITE MOBILE 5.558 Amateur 5.138	ISM Equipment (18) Amateur Radio (97)
123-130 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) RADIONAVIGATION RADIONAVIGATION-SATELLITE Radio astronomy 5.562D 5.149 5.554	123-130 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) RADIONAVIGATION RADIONAVIGATION-SATELLITE Radio astronomy 5.554 US211 US342		
130-134 EARTH EXPLORATION-SATELLITE (active) 5.562E FIXED INTER-SATELLITE MOBILE 5.558 RADIO ASTRONOMY 5.149 5.562A	130-134 EARTH EXPLORATION-SATELLITE (active) 5.562E FIXED INTER-SATELLITE MOBILE 5.558 RADIO ASTRONOMY 5.562A US342		
134-136 AMATEUR AMATEUR-SATELLITE Radio astronomy	134-136 Radio astronomy	134-136 AMATEUR AMATEUR-SATELLITE Radio astronomy	Amateur Radio (97)
136-141 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite 5.149	136-141 RADIO ASTRONOMY RADIOLOCATION US342	136-141 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite US342	
141-148.5 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149	141-148.5 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION US342		
148.5-151.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	148.5-151.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
151.5-155.5 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149	151.5-155.5 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION US342		Page 64

Table of Frequency Allocations			155.5-238 GHz (EHF)		Page 65
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
155.5-158.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.149 5.562F 5.562G			155.5-158.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.562F 5.562G US342		
158.5-164 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)			158.5-164 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) US211		
164-167 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			164-167 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
167-174.5 FIXED FIXED-SATELLITE (space-to-Earth) INTER-SATELLITE MOBILE 5.558 5.149 5.562D			167-174.5 FIXED FIXED-SATELLITE (space-to-Earth) INTER-SATELLITE MOBILE 5.558 US211 US342		
174.5-174.8 FIXED INTER-SATELLITE MOBILE 5.558			174.5-174.8 FIXED INTER-SATELLITE MOBILE 5.558		
174.8-182 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)			174.8-182 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)		
182-185 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			182-185 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) US246		
185-190 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)			185-190 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)		
190-191.8 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) 5.340			190-191.8 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US246		

191.8-200 FIXED INTER-SATELLITE MOBILE 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.149 5.341 5.554	191.8-200 FIXED INTER-SATELLITE MOBILE 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.341 5.554 US211 US342	
200-209 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341 5.563A	200-209 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 5.563A US246	
209-217 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY 5.149 5.341	209-217 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY 5.341 US342	
217-226 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.149 5.341	217-226 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY SPACE RESEARCH (passive) 5.562B 5.341 US342	
226-231.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	226-231.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) US246	
231.5-232 FIXED MOBILE Radiolocation	231.5-232 FIXED MOBILE Radiolocation	
232-235 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Radiolocation	232-235 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Radiolocation	
235-238 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) SPACE RESEARCH (passive) 5.563A 5.563B	235-238 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) SPACE RESEARCH (passive) 5.563A 5.563B	Page 66

Table of Frequency Allocations			238-1000 GHz (EHF)		Page 67
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
238-240 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE			238-240 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE		
240-241 FIXED MOBILE RADIOLOCATION			240-241 FIXED MOBILE RADIOLOCATION		
241-248 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite 5.138 5.149			241-248 RADIO ASTRONOMY RADIOLOCATION 5.138 US342	241-248 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite 5.138 US342	ISM Equipment (18) Amateur Radio (97)
248-250 AMATEUR AMATEUR-SATELLITE Radio astronomy 5.149			248-250 Radio astronomy US342	248-250 AMATEUR AMATEUR-SATELLITE Radio astronomy US342	Amateur Radio (97)
250-252 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.563A			250-252 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.563A US246		
252-265 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.149 5.554			252-265 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554 US211 US342		
265-275 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY 5.149 5.563A			265-275 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY 5.563A US342		
275-1000 (Not allocated) 5.565			275-1000 (Not allocated) 5.565		Amateur Radio (97)

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International Footnotes

5.53 Administrations authorizing the use of frequencies below 9 kHz shall ensure that no harmful interference is caused thereby to the services to which the bands above 9 kHz are allocated.

5.54 Administrations conducting scientific research using frequencies below 9 kHz are urged to advise other administrations that may be concerned in order that such research may be afforded all practicable protection from harmful interference.

5.55 *Additional allocation:* in Armenia, Azerbaijan, the Russian Federation, Georgia, Kyrgyzstan, Tajikistan and Turkmenistan, the band 14–17 kHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.56 The stations of services to which the bands 14–19.95 kHz and 20.05–70 kHz and in Region 1 also the bands 72–84 kHz and 86–90 kHz are allocated may transmit standard frequency and time signals. Such stations shall be afforded protection from harmful interference. In Armenia, Azerbaijan, Belarus, Bulgaria, the Russian Federation, Georgia, Kazakhstan, Mongolia, Kyrgyzstan, Slovakia, Tajikistan and Turkmenistan, the frequencies 25 kHz and 50 kHz will be used for this purpose under the same conditions. (WRC–07)

5.57 The use of the bands 14–19.95 kHz, 20.05–70 kHz and 70–90 kHz (72–84 kHz and 86–90 kHz in Region 1) by the maritime mobile service is limited to coast radiotelegraph stations (A1A and F1B only). Exceptionally, the use of class J2B or J7B emissions is authorized subject to the necessary bandwidth not exceeding that normally used for class A1A or F1B emissions in the band concerned.

5.58 *Additional allocation:* in Armenia, Azerbaijan, the Russian Federation, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, the band 67–70 kHz is also allocated to the radionavigation service on a primary basis.

5.59 *Different category of service:* in Bangladesh and Pakistan, the allocation of the bands 70–72 kHz and 84–86 kHz to the fixed and maritime mobile services is on a primary basis (*see* No. 5.33).

5.60 In the bands 70–90 kHz (70–86 kHz in Region 1) and 110–130 kHz (112–130 kHz in Region 1), pulsed radionavigation systems may be used on condition that they do not cause harmful interference to other services to which these bands are allocated.

5.61 In Region 2, the establishment and operation of stations in the maritime radionavigation service in the bands 70–90 kHz and 110–130 kHz shall be subject to agreement obtained under No. 9.21 with administrations whose services, operating in accordance with the Table, may be affected. However, stations of the fixed, maritime mobile and radiolocation services shall not cause harmful interference to stations in the maritime radionavigation service established under such agreements.

5.62 Administrations which operate stations in the radionavigation service in the band 90–110 kHz are urged to coordinate technical and operating characteristics in such a way as to avoid harmful interference to the services provided by these stations.

5.64 Only classes A1A or F1B, A2C, A3C, F1C or F3C emissions are authorized for stations of the fixed service in the bands allocated to this service between 90 kHz and 160 kHz (148.5 kHz in Region 1) and for stations of the maritime mobile service in the bands allocated to this service between 110 kHz and 160 kHz (148.5 kHz in Region 1). Exceptionally, class J2B or J7B emissions are also authorized in the bands between 110 kHz and 160 kHz (148.5 kHz in Region 1) for stations of the maritime mobile service.

5.65 *Different category of service:* in Bangladesh, the allocation of the bands 112–117.6 kHz and 126–129 kHz to the fixed and maritime mobile services is on a primary basis (*see* No. 5.33).

5.66 *Different category of service:* in Germany, the allocation of the band 115–117.6 kHz to the fixed and maritime mobile services is on a primary basis (*see* No. 5.33) and to the radionavigation service on a secondary basis (*see* No. 5.32).

5.67 *Additional allocation:* in Mongolia, Kyrgyzstan and Turkmenistan, the band 130–148.5 kHz is also allocated to the radionavigation service on a secondary basis. Within and between these countries this service shall have an equal right to operate. (WRC–07)

5.67A Stations in the amateur service using frequencies in the band 135.7–137.8 kHz shall not exceed a maximum radiated power of 1 W (e.i.r.p.) and shall not cause harmful interference to stations of the radionavigation service operating in countries listed in No. 5.67. (WRC–07)

5.67B The use of the band 135.7–137.8 kHz in Algeria, Egypt, Iran (Islamic Republic of), Iraq, Libyan Arab Jamahiriya, Lebanon, Syrian Arab Republic, Sudan and Tunisia is limited to the fixed and maritime mobile services. The amateur service shall not be used in the above-mentioned countries in the band 135.7–137.8 kHz, and this should be taken into account by the countries authorizing such use. (WRC–07)

5.68 *Alternative allocation:* in Angola, Burundi, Congo (Rep. of the), Malawi, the Dem. Rep. of the Congo, Rwanda and South Africa, the band 160–200 kHz is allocated to the fixed service on a primary basis.

5.69 *Additional allocation:* in Somalia, the band 200–255 kHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.70 *Alternative allocation:* in Angola, Botswana, Burundi, the Central African Rep., Congo (Rep. of the), Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Nigeria, Oman, the Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland, Tanzania, Chad, Zambia and Zimbabwe, the band 200–283.5 kHz is allocated to the aeronautical radionavigation service on a primary basis. (WRC–07)

5.71 *Alternative allocation:* in Tunisia, the band 255–283.5 kHz is allocated to the broadcasting service on a primary basis.

5.72 Norwegian stations of the fixed service situated in northern areas (north of 60° N) subject to auroral disturbances are allowed to continue operation on four frequencies in the bands 283.5–490 kHz and 510–526.5 kHz.

5.73 The band 285–325 kHz (283.5–325 kHz in Region 1) in the maritime radionavigation service may be used to transmit supplementary navigational information using narrow-band techniques, on condition that no harmful interference is caused to radiobeacon stations operating in the radionavigation service.

5.74 *Additional Allocation:* in Region 1, the frequency band 285.3–285.7 kHz is also allocated to the maritime radionavigation service (other than radiobeacons) on a primary basis.

5.75 *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Moldova, Kyrgyzstan, Tajikistan, Turkmenistan, Ukraine and the Black Sea areas of Romania, the allocation of the band 315–325 kHz to the maritime radionavigation service is on a primary basis under the condition that in the Baltic Sea area, the assignment of frequencies in this band to new stations in the maritime or aeronautical radionavigation services shall be subject to prior consultation between the administrations concerned. (WRC–07)

5.76 The frequency 410 kHz is designated for radio direction-finding in the maritime radionavigation service. The other radionavigation services to which the band 405–415 kHz is allocated shall not cause harmful interference to radio direction-finding in the band 406.5–413.5 kHz.

5.77 *Different category of service:* in Australia, China, the French overseas communities of Region 3, India, Iran (Islamic Republic of), Japan, Pakistan, Papua New Guinea and Sri Lanka, the allocation of the band 415–495 kHz to the aeronautical radionavigation service is on a primary basis. Administrations in these countries shall take all practical steps necessary to ensure that aeronautical radionavigation stations in the band 435–495 kHz do not cause interference to reception by coast stations of ship stations transmitting on frequencies designated for ship stations on a worldwide basis (*see* No. 52.39). (WRC–07)

5.78 *Different category of service:* in Cuba, the United States of America and Mexico, the allocation of the band 415–435 kHz to the aeronautical radionavigation service is on a primary basis.

5.79 The use of the bands 415–495 kHz and 505–526.5 kHz (505–510 kHz in Region 2) by the maritime mobile service is limited to radiotelegraphy.

5.79A When establishing coast stations in the NAVTEX service on the frequencies 490 kHz, 518 kHz and 4209.5 kHz, administrations are strongly recommended to coordinate the operating characteristics in accordance with the procedures of the International Maritime Organization (IMO) (see Resolution 339 (Rev.WRC–07)). (WRC–07)

5.80 In Region 2, the use of the band 435–495 kHz by the aeronautical radionavigation service is limited to non-directional beacons not employing voice transmission.

5.82 In the maritime mobile service, the frequency 490 kHz is to be used exclusively for the transmission by coast stations of navigational and meteorological warnings and urgent information to ships, by means of narrow-band direct-printing telegraphy. The conditions for use of the frequency 490 kHz are prescribed in Articles 31 and 52. In using

the band 415–495 kHz for the aeronautical radionavigation service, administrations are requested to ensure that no harmful interference is caused to the frequency 490 kHz. (WRC–07)

5.82A The use of the band 495–505 kHz is limited to radiotelegraphy. (WRC–07)

5.82B Administrations authorizing the use of frequencies in the band 495–505 kHz by services other than the maritime mobile service shall ensure that no harmful interference is caused to the maritime mobile service in this band or to the services having allocations in the adjacent bands, noting in particular the conditions of use of the frequencies 490 kHz and 518 kHz, as prescribed in Articles 31 and 52. (WRC–07)

5.84 The conditions for the use of the frequency 518 kHz by the maritime mobile service are prescribed in Articles 31 and 52. (WRC–07)

5.86 In Region 2, in the band 525–535 kHz the carrier power of broadcasting stations shall not exceed 1 kW during the day and 250 W at night.

5.87 *Additional allocation:* in Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland and Zimbabwe, the band 526.5–535 kHz is also allocated to the mobile service on a secondary basis.

5.87A *Additional allocation:* in Uzbekistan, the band 526.5–1606.5 kHz is also allocated to the radionavigation service on a primary basis. Such use is subject to agreement obtained under No. 9.21 with administrations concerned and limited to ground-based radiobeacons in operation on 27 October 1997 until the end of their lifetime.

5.88 *Additional allocation:* in China, the band 526.5–535 kHz is also allocated to the aeronautical radionavigation service on a secondary basis.

5.89 In Region 2, the use of the band 1605–1705 kHz by stations of the broadcasting service is subject to the Plan established by the Regional Administrative Radio Conference (Rio de Janeiro, 1988).

The examination of frequency assignments to stations of the fixed and mobile services in the band 1625–1705 kHz shall take account of the allotments appearing in the Plan established by the Regional Administrative Radio Conference (Rio de Janeiro, 1988).

5.90 In the band 1605–1705 kHz, in cases where a broadcasting station of Region 2 is concerned, the service area of the maritime mobile stations in Region 1 shall be limited to that provided by ground-wave propagation.

5.91 *Additional allocation:* in the Philippines and Sri Lanka, the band 1606.5–1705 kHz is also allocated to the broadcasting service on a secondary basis.

5.92 Some countries of Region 1 use radiodetermination systems in the bands 1606.5–1625 kHz, 1635–1800 kHz, 1850–2160 kHz, 2194–2300 kHz, 2502–2850 kHz and 3500–3800 kHz, subject to agreement obtained under No. 9.21. The radiated mean power of these stations shall not exceed 50 W.

5.93 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Hungary, Kazakhstan, Latvia, Lithuania, Moldova, Mongolia, Nigeria, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Tajikistan, Chad, Turkmenistan and Ukraine, the bands 1625–1635 kHz, 1800–1810 kHz and 2160–2170 kHz are also allocated to the fixed and land mobile services on a primary basis, subject to agreement obtained under No. 9.21. (WRC–07)

5.96 In Germany, Armenia, Austria, Azerbaijan, Belarus, Denmark, Estonia, the Russian Federation, Finland, Georgia, Hungary, Ireland, Iceland, Israel, Kazakhstan, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Norway, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., the United Kingdom, Sweden, Switzerland, Tajikistan, Turkmenistan and Ukraine, administrations may allocate up to 200 kHz to their amateur service in the bands 1715–1800 kHz and 1850–2000 kHz. However, when allocating the bands within this range to their amateur service, administrations shall, after prior consultation with administrations of neighbouring countries, take such steps as may be necessary to prevent harmful interference from their amateur service to the fixed and mobile services of other countries. The mean power of any amateur station shall not exceed 10 W.

5.97 In Region 3, the Loran system operates either on 1850 kHz or 1950 kHz, the bands occupied being 1825–1875 kHz and 1925–1975 kHz respectively. Other services to which the band 1800–2000 kHz is allocated may use any frequency therein on condition that no harmful interference is caused to the Loran system operating on 1850 kHz or 1950 kHz.

5.98 *Alternative allocation:* in Angola, Armenia, Azerbaijan, Belarus, Belgium, Cameroon, Congo (Rep. of the), Denmark, Egypt, Eritrea, Spain, Ethiopia, the Russian Federation, Georgia, Greece, Italy, Kazakhstan, Lebanon, Lithuania, Moldova, the Syrian Arab Republic, Kyrgyzstan, Somalia, Tajikistan, Tunisia, Turkmenistan, Turkey and Ukraine, the band 1810–1830 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.99 *Additional allocation:* in Saudi Arabia, Austria, Iraq, the Libyan Arab Jamahiriya, Uzbekistan, Slovakia, Romania, Serbia, Slovenia, Chad, and Togo, the band 1810–1830 kHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.100 In Region 1, the authorization to use the band 1810–1830 kHz by the amateur service in countries situated totally or partially north of 40° N shall be given only after consultation with the countries mentioned in Nos. 5.98 and 5.99 to define the necessary steps to be taken to prevent harmful interference between amateur stations and stations of other services operating in accordance with Nos. 5.98 and 5.99.

5.101 *Alternative allocation:* in Burundi and Lesotho, the band 1810–1850 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.102 *Alternative allocation:* in Bolivia, Chile, Mexico, Paraguay, Peru and Uruguay, the band 1850–2000 kHz is allocated to the fixed, mobile except aeronautical mobile, radiolocation and radionavigation services on a primary basis. (WRC–07)

5.103 In Region 1, in making assignments to stations in the fixed and mobile services in the bands 1850–2045 kHz, 2194–2498 kHz, 2502–2625 kHz and 2650–2850 kHz, administrations should bear in mind the special requirements of the maritime mobile service.

5.104 In Region 1, the use of the band 2025–2045 kHz by the meteorological aids service is limited to oceanographic buoy stations.

5.105 In Region 2, except in Greenland, coast stations and ship stations using radiotelephony in the band 2065–2107 kHz shall be limited to class J3E emissions and to a peak envelope power not exceeding 1 kW. Preferably, the following carrier frequencies should be used: 2065.0 kHz, 2079.0 kHz, 2082.5 kHz, 2086.0 kHz, 2093.0 kHz, 2096.5 kHz, 2100.0 kHz and 2103.5 kHz. In Argentina and Uruguay, the carrier frequencies 2068.5 kHz and 2075.5 kHz are also used for this purpose, while the frequencies within the band 2072–2075.5 kHz are used as provided in No. 52.165.

5.106 In Regions 2 and 3, provided no harmful interference is caused to the maritime mobile service, the frequencies between 2065 kHz and 2107 kHz may be used by stations of the fixed service communicating only within national borders and whose mean power does not exceed 50 W. In notifying the frequencies, the attention of the Bureau should be drawn to these provisions.

5.107 *Additional allocation:* in Saudi Arabia, Eritrea, Ethiopia, Iraq, the Libyan Arab Jamahiriya, Lesotho, Somalia and Swaziland, the band 2160–2170 kHz is also allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis. The mean power of stations in these services shall not exceed 50 W.

5.108 The carrier frequency 2182 kHz is an international distress and calling frequency for radiotelephony. The conditions for the use of the band 2173.5–2190.5 kHz are prescribed in Articles 31 and 52. (WRC–07)

5.109 The frequencies 2187.5 kHz, 4207.5 kHz, 6312 kHz, 8414.5 kHz, 12577 kHz and 16804.5 kHz are international distress frequencies for digital selective calling. The conditions for the use of these frequencies are prescribed in Article 31.

5.110 The frequencies 2174.5 kHz, 4177.5 kHz, 6268 kHz, 8376.5 kHz, 12520 kHz and 16695 kHz are international distress frequencies for narrow-band direct-printing telegraphy. The conditions for the use of these frequencies are prescribed in Article 31.

5.111 The carrier frequencies 2182 kHz, 3023 kHz, 5680 kHz, 8364 kHz and the frequencies 121.5 MHz, 156.525 MHz, 156.8 MHz and 243 MHz may also be used, in accordance with the procedures in force for terrestrial radiocommunication services, for search and rescue operations concerning manned space vehicles. The conditions for the use of the frequencies are prescribed in Article 31.

The same applies to the frequencies 10003 kHz, 14993 kHz and 19993 kHz, but in each

of these cases emissions must be confined in a band of ± 3 kHz about the frequency. (WRC–07)

5.112 *Alternative allocation:* in Denmark, Malta, Serbia and Sri Lanka, the band 2194–2300 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.113 For the conditions for the use of the bands 2300–2495 kHz (2498 kHz in Region 1), 3200–3400 kHz, 4750–4995 kHz and 5005–5060 kHz by the broadcasting service, *see* Nos. 5.16 to 5.20, 5.21 and 23.3 to 23.10.

5.114 *Alternative allocation:* in Denmark, Iraq, Malta and Serbia, the band 2502–2625 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.115 The carrier (reference) frequencies 3023 kHz and 5680 kHz may also be used, in accordance with Article 31, by stations of the maritime mobile service engaged in coordinated search and rescue operations. (WRC–07)

5.116 Administrations are urged to authorize the use of the band 3155–3195 kHz to provide a common worldwide channel for low power wireless hearing aids. Additional channels for these devices may be assigned by administrations in the bands between 3155 kHz and 3400 kHz to suit local needs.

It should be noted that frequencies in the range 3000 kHz to 4000 kHz are suitable for hearing aid devices which are designed to operate over short distances within the induction field.

5.117 *Alternative allocation:* in Côte d'Ivoire, Denmark, Egypt, Liberia, Malta, Serbia, Sri Lanka and Togo, the band 3155–3200 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.118 *Additional allocation:* in the United States, Mexico, Peru and Uruguay, the band 3230–3400 kHz is also allocated to the radiolocation service on a secondary basis.

5.119 *Additional allocation:* in Honduras, Mexico and Peru, the band 3500–3750 kHz is also allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.122 *Alternative allocation:* in Bolivia, Chile, Ecuador, Paraguay, Peru and Uruguay, the band 3750–4000 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.123 *Additional allocation:* in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the band 3900–3950 kHz is also allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

5.125 *Additional allocation:* in Greenland, the band 3950–4000 kHz is also allocated to the broadcasting service on a primary basis. The power of the broadcasting stations operating in this band shall not exceed that necessary for a national service and shall in no case exceed 5 kW.

5.126 In Region 3, the stations of those services to which the band 3995–4005 kHz is allocated may transmit standard frequency and time signals.

5.127 The use of the band 4000–4063 kHz by the maritime mobile service is limited to ship stations using radiotelephony (*see* No. 52.220 and Appendix 17).

5.128 Frequencies in the bands 4063–4123 kHz and 4130–4438 kHz may be used exceptionally by stations in the fixed service, communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 W, on condition that harmful interference is not caused to the maritime mobile service. In addition, in Afghanistan, Argentina, Armenia, Azerbaijan, Belarus, Botswana, Burkina Faso, the Central African Rep., China, the Russian Federation, Georgia, India, Kazakhstan, Mali, Niger, Kyrgyzstan, Tajikistan, Chad, Turkmenistan and Ukraine, in the bands 4063–4123 kHz, 4130–4133 kHz and 4408–4438 kHz, stations in the fixed service, with a mean power not exceeding 1 kW, can be operated on condition that they are situated at least 600 km from the coast and that harmful interference is not caused to the maritime mobile service. (WRC–07)

5.130 The conditions for the use of the carrier frequencies 4125 kHz and 6215 kHz are prescribed in Articles 31 and 52. (WRC–07)

5.131 The frequency 4209.5 kHz is used exclusively for the transmission by coast stations of meteorological and navigational warnings and urgent information to ships by means of narrow-band direct-printing techniques.

5.132 The frequencies 4210 kHz, 6314 kHz, 8416.5 kHz, 12579 kHz, 16806.5 kHz, 19680.5 kHz, 22376 kHz and 26100.5 kHz are the international frequencies for the transmission of maritime safety information (MSI) (*see* Appendix 17).

5.133 *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Latvia, Lithuania, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 5130–5250 kHz to the mobile, except aeronautical mobile, service is on a primary basis (*see* No. 5.33). (WRC–07)

5.134 The use of the bands 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 13570–13600 kHz, 13800–13870 kHz, 15600–15800 kHz, 17480–17550 kHz and 18900–19020 kHz by the broadcasting service is subject to the application of the procedure of Article 12. Administrations are encouraged to use these bands to facilitate the introduction of digitally modulated emissions in accordance with the provisions of Resolution 517 (Rev. WRC–07). (WRC–07)

5.136 *Additional allocation:* frequencies in the band 5900–5950 kHz may be used by stations in the following services, communicating only within the boundary of the country in which they are located: fixed service (in all three Regions), land mobile service (in Region 1), mobile except aeronautical mobile (R) service (in Regions 2 and 3), on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations. (WRC–07)

5.137 On condition that harmful interference is not caused to the maritime mobile service, the bands 6200–6213.5 kHz and 6220.5–6525 kHz may be used exceptionally by stations in the fixed service, communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 W. At the time of notification of these frequencies, the attention of the Bureau will be drawn to the above conditions.

5.138 The following bands:

6765–6795 kHz (centre frequency 6780 kHz),
433.05–434.79 MHz (centre frequency 433.92 MHz) in Region 1 except in the countries mentioned in No. 5.280,
61–61.5 GHz (centre frequency 61.25 GHz),
122–123 GHz (centre frequency 122.5 GHz), and
244–246 GHz (centre frequency 245 GHz)

are designated for industrial, scientific and medical (ISM) applications. The use of these frequency bands for ISM applications shall be subject to special authorization by the administration concerned, in agreement with other administrations whose radiocommunication services might be affected. In applying this provision, administrations shall have due regard to the latest relevant ITU–R Recommendations.

5.138A and 5.139 (Expired 2009) (FCC)

5.140 *Additional allocation:* in Angola, Iraq, Kenya, Rwanda, Somalia and Togo, the band 7000–7050 kHz is also allocated to the fixed service on a primary basis.

5.141 *Alternative allocation:* in Egypt, Eritrea, Ethiopia, Guinea, the Libyan Arab Jamahiriya and Madagascar, the band 7000–7050 kHz is allocated to the fixed service on a primary basis.

5.141A *Additional allocation:* in Uzbekistan and Kyrgyzstan, the bands 7000–7100 kHz and 7100–7200 kHz are also allocated to the fixed and land mobile services on a secondary basis.

5.141B *Additional allocation:* after 29 March 2009, in Algeria, Saudi Arabia, Australia, Bahrain, Botswana, Brunei Darussalam, China, Comoros, Korea (Rep. of), Diego Garcia, Djibouti, Egypt, United Arab Emirates, Eritrea, Indonesia, Iran (Islamic Republic of), Japan, Jordan, Kuwait, the Libyan Arab Jamahiriya, Morocco, Mauritania, New Zealand, Oman, Papua New Guinea, Qatar, the Syrian Arab Republic, Singapore, Sudan, Tunisia, Viet Nam and Yemen, the band 7100–7200 kHz is also allocated to the fixed and the mobile, except aeronautical mobile (R), services on a primary basis.

5.141C (Expired 2009) (FCC)

5.142 Until 29 March 2009, the use of the band 7100–7300 kHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3. After 29 March 2009 the use of the band 7200–7300 kHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3.

5.143 *Additional allocation:* frequencies in the band 7300–7350 kHz may be used by stations in the fixed service and in the land mobile service, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting

service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations. (WRC–07)

5.143A In Region 3, the band 7350–7450 kHz is allocated, until 29 March 2009, to the fixed service on a primary basis and to the land mobile service on a secondary basis. After 29 March 2009, frequencies in this band may be used by stations in the above-mentioned services, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

5.143B In Region 1, the band 7350–7450 kHz is allocated, until 29 March 2009, to the fixed service on a primary basis and to the land mobile service on a secondary basis. After 29 March 2009, on condition that harmful interference is not caused to the broadcasting service, frequencies in the band 7350–7450 kHz may be used by stations in the fixed and land mobile services communicating only within the boundary of the country in which they are located, each station using a total radiated power that shall not exceed 24 dBW.

5.143C *Additional allocation:* after 29 March 2009 in Algeria, Saudi Arabia, Bahrain, Comoros, Djibouti, Egypt, United Arab Emirates, Iran (Islamic Republic of), the Libyan Arab Jamahiriya, Jordan, Kuwait, Morocco, Mauritania, Oman, Qatar, the Syrian Arab Republic, Sudan, Tunisia and Yemen, the bands 7350–7400 kHz and 7400–7450 kHz are also allocated to the fixed service on a primary basis.

5.143D In Region 2, the band 7350–7400 kHz is allocated, until 29 March 2009, to the fixed service on a primary basis and to the land mobile service on a secondary basis. After 29 March 2009, frequencies in this band may be used by stations in the above-mentioned services, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

5.143E (Expired 2009) (FCC)

5.144 In Region 3, the stations of those services to which the band 7995–8005 kHz is allocated may transmit standard frequency and time signals.

5.145 The conditions for the use of the carrier frequencies 8291 kHz, 12290 kHz and 16420 kHz are prescribed in Articles 31 and 52. (WRC–07)

5.146 *Additional allocation:* frequencies in the bands 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 15600–15800 kHz, 17480–17550 kHz and 18900–19020 kHz may be used by stations in the fixed service, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies in the fixed service, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations. (WRC–07)

5.147 On condition that harmful interference is not caused to the broadcasting service, frequencies in the bands 9775–9900 kHz, 11650–11700 kHz and 11975–12050 kHz may be used by stations in the fixed service communicating only within the boundary of the country in which they are located, each station using a total radiated power not exceeding 24 dBW.

5.149 In making assignments to stations of other services to which the bands:

13360–13410 kHz,
25550–25670 kHz,
37.5–38.25 MHz,
73–74.6 MHz in Regions 1 and 3,
150.05–153 MHz in Region 1,
322–328.6 MHz,
406.1–410 MHz,
608–614 MHz in Regions 1 and 3,
1330–1400 MHz,
1610.6–1613.8 MHz,
1660–1670 MHz,
1718.8–1722.2 MHz,
2655–2690 MHz,
3260–3267 MHz,
3332–3339 MHz,
3345.8–3352.5 MHz,
4825–4835 MHz,
4950–4990 MHz,
4990–5000 MHz,
6650–6675.2 MHz,
10.6–10.68 GHz,
14.47–14.5 GHz,
22.01–22.21 GHz,
22.21–22.5 GHz,
22.81–22.86 GHz,
23.07–23.12 GHz,
31.2–31.3 GHz,
31.5–31.8 GHz in Regions 1 and 3,
36.43–36.5 GHz,
42.5–43.5 GHz,
48.94–49.04 GHz,
76–86 GHz,
92–94 GHz,
94.1–100 GHz,
102–109.5 GHz,
111.8–114.25 GHz,
128.33–128.59 GHz,
129.23–129.49 GHz,
130–134 GHz,
136–148.5 GHz,
151.5–158.5 GHz,
168.59–168.93 GHz,
171.11–171.45 GHz,
172.31–172.65 GHz,
173.52–173.85 GHz,
195.75–196.15 GHz,
209–226 GHz,
241–250 GHz,
252–275 GHz

are allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (*see* Nos. 4.5 and 4.6 and Article 29). (WRC–07)

5.150 The following bands:

13553–13567 kHz (centre frequency 13560 kHz),
26957–27283 kHz (centre frequency 27120 kHz),
40.66–40.70 MHz (centre frequency 40.68 MHz),
902–928 MHz in Region 2 (centre frequency 915 MHz),
2400–2500 MHz (centre frequency 2450 MHz),
5725–5875 MHz (centre frequency 5800 MHz), and
24–24.25 GHz (centre frequency 24.125 GHz)

are also designated for industrial, scientific and medical (ISM) applications. Radiocommunication services operating within these bands must accept harmful interference which may be caused by these applications. ISM equipment operating in these bands is subject to the provisions of No. 15.13.

5.151 *Additional allocation:* frequencies in the bands 13570–13600 kHz and 13800–13870 kHz may be used by stations in the fixed service and in the mobile except aeronautical mobile (R) service, communicating only within the boundary of the country in which they are located, on the condition that harmful interference is not caused to the broadcasting service. When using frequencies in these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations. (WRC–07)

5.152 *Additional allocation:* in Armenia, Azerbaijan, China, Côte d'Ivoire, the Russian Federation, Georgia, Iran (Islamic Republic of), Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 14250–14350 kHz is also allocated to the fixed service on a primary basis. Stations of the fixed service shall not use a radiated power exceeding 24 dBW.

5.153 In Region 3, the stations of those services to which the band 15995–16005 kHz is allocated may transmit standard frequency and time signals.

5.154 *Additional allocation:* in Armenia, Azerbaijan, the Russian Federation, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 18068–18168 kHz is also allocated to the fixed service on a primary basis for use within their boundaries, with a peak envelope power not exceeding 1 kW.

5.155 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the band 21850–21870 kHz is also allocated to the aeronautical mobile (R) service on a primary basis. (WRC–07)

5.155A In Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the use of the band 21850–21870 kHz by the fixed service is limited to provision of services related to aircraft flight safety. (WRC–07)

5.155B The band 21870–21924 kHz is used by the fixed service for provision of services related to aircraft flight safety.

5.156 *Additional allocation:* in Nigeria, the band 22720–23200 kHz is also allocated to the meteorological aids service (radiosondes) on a primary basis.

5.156A The use of the band 23200–23350 kHz by the fixed service is limited to provision of services related to aircraft flight safety.

5.157 The use of the band 23350–24000 kHz by the maritime mobile service is limited to inter-ship radiotelegraphy.

5.160 *Additional allocation:* in Botswana, Burundi, Lesotho, Malawi, Dem. Rep. of the Congo, Rwanda and Swaziland, the band 41–

44 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.161 *Additional allocation:* in Iran (Islamic Republic of) and Japan, the band 41–44 MHz is also allocated to the radiolocation service on a secondary basis.

5.162 *Additional allocation:* in Australia and New Zealand, the band 44–47 MHz is also allocated to the broadcasting service on a primary basis.

5.162A *Additional allocation:* in Germany, Austria, Belgium, Bosnia and Herzegovina, China, Vatican, Denmark, Spain, Estonia, the Russian Federation, Finland, France, Ireland, Iceland, Italy, Latvia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Lithuania, Luxembourg, Monaco, Montenegro, Norway, the Netherlands, Poland, Portugal, Slovakia, the Czech Rep., the United Kingdom, Serbia, Slovenia, Sweden and Switzerland the band 46–68 MHz is also allocated to the radiolocation service on a secondary basis. This use is limited to the operation of wind profiler radars in accordance with Resolution 217 (WRC–97). (WRC–07)

5.163 *Additional allocation:* in Armenia, Belarus, the Russian Federation, Georgia, Hungary, Kazakhstan, Latvia, Lithuania, Moldova, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., Tajikistan, Turkmenistan and Ukraine, the bands 47–48.5 MHz and 56.5–58 MHz are also allocated to the fixed and land mobile services on a secondary basis. (WRC–07)

5.164 *Additional allocation:* in Albania, Germany, Austria, Belgium, Bosnia and Herzegovina, Botswana, Bulgaria, Côte d'Ivoire, Denmark, Spain, Estonia, Finland, France, Gabon, Greece, Ireland, Israel, Italy, the Libyan Arab Jamahiriya, Jordan, Lebanon, Liechtenstein, Luxembourg, Madagascar, Mali, Malta, Morocco, Mauritania, Monaco, Montenegro, Nigeria, Norway, the Netherlands, Poland, Syrian Arab Republic, Romania, the United Kingdom, Serbia, Slovenia, Sweden, Switzerland, Swaziland, Chad, Togo, Tunisia and Turkey, the band 47–68 MHz, in South Africa the band 47–50 MHz, in the Czech Rep. the band 66–68 MHz, and in Latvia and Lithuania the band 48.5–56.5 MHz, are also allocated to the land mobile service on a primary basis. However, stations of the land mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations of countries other than those mentioned in connection with the band. (WRC–07)

5.165 *Additional allocation:* in Angola, Cameroon, Congo (Rep. of the), Madagascar, Mozambique, Somalia, Sudan, Tanzania and Chad, the band 47–68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.166 *Alternative allocation:* in New Zealand, the band 50–51 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis; the band 53–54 MHz is allocated to the fixed and mobile services on a primary basis.

5.167 *Alternative allocation:* in Bangladesh, Brunei Darussalam, India, Iran (Islamic Republic of), Pakistan, Singapore and Thailand, the band 50–54 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis. (WRC–07)

5.167A *Additional allocation:* in Indonesia, the band 50–54 MHz is also allocated to the fixed, mobile and broadcasting services on a primary basis. (WRC–07)

5.168 *Additional allocation:* in Australia, China and the Dem. People's Rep. of Korea, the band 50–54 MHz is also allocated to the broadcasting service on a primary basis.

5.169 *Alternative allocation:* in Botswana, Burundi, Lesotho, Malawi, Namibia, the Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland, Zambia and Zimbabwe, the band 50–54 MHz is allocated to the amateur service on a primary basis.

5.170 *Additional allocation:* in New Zealand, the band 51–53 MHz is also allocated to the fixed and mobile services on a primary basis.

5.171 *Additional allocation:* in Botswana, Burundi, Lesotho, Malawi, Mali, Namibia, Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland and Zimbabwe, the band 54–68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.172 *Different category of service:* in the French overseas departments and communities in Region 2, Guyana, Jamaica and Mexico, the allocation of the band 54–68 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33).

5.173 *Different category of service:* in the French overseas departments and communities in Region 2, Guyana, Jamaica and Mexico, the allocation of the band 68–72 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33).

5.175 *Alternative allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the bands 68–73 MHz and 76–87.5 MHz are allocated to the broadcasting service on a primary basis. In Latvia and Lithuania, the bands 68–73 MHz and 76–87.5 MHz are allocated to the broadcasting and mobile, except aeronautical mobile, services on a primary basis. The services to which these bands are allocated in other countries and the broadcasting service in the countries listed above are subject to agreements with the neighbouring countries concerned. (WRC–07)

5.176 *Additional allocation:* in Australia, China, Korea (Rep. of), the Philippines, the Dem. People's Rep. of Korea and Samoa, the band 68–74 MHz is also allocated to the broadcasting service on a primary basis. (WRC–07)

5.177 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 73–74 MHz is also allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21. (WRC–07)

5.178 *Additional allocation:* in Colombia, Costa Rica, Cuba, El Salvador, Guatemala, Guyana, Honduras and Nicaragua, the band 73–74.6 MHz is also allocated to the fixed and mobile services on a secondary basis.

5.179 *Additional allocation:* in Armenia, Azerbaijan, Belarus, China, the Russian Federation, Georgia, Kazakhstan, Lithuania, Mongolia, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the bands 74.6–74.8 MHz and 75.2–75.4 MHz are also allocated to the aeronautical radionavigation service, on a primary basis, for ground-based transmitters only. (WRC–07)

5.180 The frequency 75 MHz is assigned to marker beacons. Administrations shall refrain from assigning frequencies close to the limits of the guardband to stations of other services which, because of their power or geographical position, might cause harmful interference or otherwise place a constraint on marker beacons.

Every effort should be made to improve further the characteristics of airborne receivers and to limit the power of transmitting stations close to the limits 74.8 MHz and 75.2 MHz.

5.181 *Additional allocation:* in Egypt, Israel and the Syrian Arab Republic, the band 74.8–75.2 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedure invoked under No. 9.21.

5.182 *Additional allocation:* in Western Samoa, the band 75.4–87 MHz is also allocated to the broadcasting service on a primary basis.

5.183 *Additional allocation:* in China, Korea (Rep. of), Japan, the Philippines and the Dem. People's Rep. of Korea, the band 76–87 MHz is also allocated to the broadcasting service on a primary basis.

5.185 *Different category of service:* in the United States, the French overseas departments and communities in Region 2, Guyana, Jamaica, Mexico and Paraguay, the allocation of the band 76–88 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33).

5.187 *Alternative allocation:* in Albania, the band 81–87.5 MHz is allocated to the broadcasting service on a primary basis and used in accordance with the decisions contained in the Final Acts of the Special Regional Conference (Geneva, 1960).

5.188 *Additional allocation:* in Australia, the band 85–87 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service in Australia is subject to special agreements between the administrations concerned.

5.190 *Additional allocation:* in Monaco, the band 87.5–88 MHz is also allocated to the land mobile service on a primary basis, subject to agreement obtained under No. 9.21.

5.192 *Additional allocation:* in China and Korea (Rep. of), the band 100–108 MHz is also allocated to the fixed and mobile services on a primary basis.

5.194 *Additional allocation:* in Azerbaijan, Kyrgyzstan, Somalia and Turkmenistan, the band 104–108 MHz is also

allocated to the mobile, except aeronautical mobile (R), service on a secondary basis. (WRC–07)

5.197 *Additional allocation:* in Pakistan and the Syrian Arab Republic, the band 108–111.975 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedures invoked under No. 9.21. (WRC–07)

5.197A *Additional allocation:* the band 108–117.975 MHz is also allocated on a primary basis to the aeronautical mobile (R) service, limited to systems operating in accordance with recognized international aeronautical standards. Such use shall be in accordance with Resolution 413 (Rev.WRC–07). The use of the band 108–112 MHz by the aeronautical mobile (R) service shall be limited to systems composed of ground-based transmitters and associated receivers that provide navigational information in support of air navigation functions in accordance with recognized international aeronautical standards. (WRC–07)

5.200 In the band 117.975–137 MHz, the frequency 121.5 MHz is the aeronautical emergency frequency and, where required, the frequency 123.1 MHz is the aeronautical frequency auxiliary to 121.5 MHz. Mobile stations of the maritime mobile service may communicate on these frequencies under the conditions laid down in Article 31 for distress and safety purposes with stations of the aeronautical mobile service. (WRC–07)

5.201 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Bulgaria, Estonia, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Iraq, Japan, Kazakhstan, Latvia, Moldova, Mongolia, Mozambique, Uzbekistan, Papua New Guinea, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the band 132–136 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

5.202 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Belarus, Bulgaria, the United Arab Emirates, the Russian Federation, Georgia, Iran (Islamic Republic of), Jordan, Latvia, Moldova, Oman, Uzbekistan, Poland, the Syrian Arab Republic, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the band 136–137 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

5.204 *Different category of service:* in Afghanistan, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, China, Cuba, the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Kuwait, Montenegro, Oman, Pakistan, the Philippines, Qatar, Serbia, Singapore, Thailand and Yemen, the band 137–138 MHz is allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis (*see* No. 5.33). (WRC–07)

5.205 *Different category of service:* in Israel and Jordan, the allocation of the band 137–138 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 5.33).

5.206 *Different category of service:* in Armenia, Azerbaijan, Belarus, Bulgaria, Egypt, the Russian Federation, Finland, France, Georgia, Greece, Kazakhstan, Lebanon, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, the Syrian Arab Republic, Slovakia, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 137–138 MHz to the aeronautical mobile (OR) service is on a primary basis (*see* No. 5.33).

5.207 *Additional allocation:* in Australia, the band 137–144 MHz is also allocated to the broadcasting service on a primary basis until that service can be accommodated within regional broadcasting allocations.

5.208 The use of the band 137–138 MHz by the mobile-satellite service is subject to coordination under No. 9.11A.

5.208A In making assignments to space stations in the mobile-satellite service in the bands 137–138 MHz, 387–390 MHz and 400.15–401 MHz, administrations shall take all practicable steps to protect the radio astronomy service in the bands 150.05–153 MHz, 322–328.6 MHz, 406.1–410 MHz and 608–614 MHz from harmful interference from unwanted emissions. The threshold levels of interference detrimental to the radio astronomy service are shown in the relevant ITU–R Recommendation. (WRC–07)

5.208B In the bands:

137–138 MHz,
387–390 MHz,
400.15–401 MHz,
1452–1492 MHz,
1525–1610 MHz,
1613.8–1626.5 MHz,
2655–2690 MHz,
21.4–22 GHz,

Resolution 739 (Rev.WRC–07) applies. (WRC–07) (FCC)

5.209 The use of the bands 137–138 MHz, 148–150.05 MHz, 399.9–400.05 MHz, 400.15–401 MHz, 454–456 MHz and 459–460 MHz by the mobile-satellite service is limited to non-geostationary-satellite systems.

5.210 *Additional allocation:* in Italy, the Czech Rep. and the United Kingdom, the bands 138–143.6 MHz and 143.65–144 MHz are also allocated to the space research service (space-to-Earth) on a secondary basis. (WRC–07)

5.211 *Additional allocation:* in Germany, Saudi Arabia, Austria, Bahrain, Belgium, Denmark, the United Arab Emirates, Spain, Finland, Greece, Ireland, Israel, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Lebanon, Liechtenstein, Luxembourg, Mali, Malta, Montenegro, Norway, the Netherlands, Qatar, the United Kingdom, Serbia, Slovenia, Somalia, Sweden, Switzerland, Tanzania, Tunisia and Turkey, the band 138–144 MHz is also allocated to the maritime mobile and land mobile services on a primary basis. (WRC–07)

5.212 *Alternative allocation:* in Angola, Botswana, Burundi, Cameroon, the Central African Rep., Congo (Rep. of the), Gabon, Gambia, Ghana, Guinea, Iraq, Libyan Arab Jamahiriya, Jordan, Lesotho, Liberia, Malawi, Mozambique, Namibia, Oman, Uganda, Syrian Arab Republic, the Dem. Rep. of the Congo, Rwanda, Sierra Leone, South Africa, Swaziland, Chad, Togo, Zambia and Zimbabwe, the band 138–144 MHz is allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.213 *Additional allocation:* in China, the band 138–144 MHz is also allocated to the radiolocation service on a primary basis.

5.214 *Additional allocation:* in Eritrea, Ethiopia, Kenya, The Former Yugoslav Republic of Macedonia, Malta, Montenegro, Serbia, Somalia, Sudan and Tanzania, the band 138–144 MHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.216 *Additional allocation:* in China, the band 144–146 MHz is also allocated to the aeronautical mobile (OR) service on a secondary basis.

5.217 *Alternative allocation:* in Afghanistan, Bangladesh, Cuba, Guyana and India, the band 146–148 MHz is allocated to the fixed and mobile services on a primary basis.

5.218 *Additional allocation:* the band 148–149.9 MHz is also allocated to the space operation service (Earth-to-space) on a primary basis, subject to agreement obtained under No. 9.21. The bandwidth of any individual transmission shall not exceed ± 25 kHz.

5.219 The use of the band 148–149.9 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The mobile-satellite service shall not constrain the development and use of the fixed, mobile and space operation services in the band 148–149.9 MHz.

5.220 The use of the bands 149.9–150.05 MHz and 399.9–400.05 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The mobile-satellite service shall not constrain the development and use of the radionavigation-satellite service in the bands 149.9–150.05 MHz and 399.9–400.05 MHz.

5.221 Stations of the mobile-satellite service in the band 148–149.9 MHz shall not cause harmful interference to, or claim protection from, stations of the fixed or mobile services operating in accordance with the Table of Frequency Allocations in the following countries: Albania, Algeria, Germany, Saudi Arabia, Australia, Austria, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Cameroon, China, Cyprus, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Croatia, Cuba, Denmark, Egypt, the United Arab Emirates, Eritrea, Spain, Estonia, Ethiopia, the Russian Federation, Finland, France, Gabon, Ghana, Greece, Guinea, Guinea Bissau, Hungary, India, Iran (Islamic Republic of), Ireland, Iceland, Israel, Italy, the Libyan Arab Jamahiriya, Jamaica, Japan,

Jordan, Kazakhstan, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Lesotho, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Mali, Malta, Mauritania, Moldova, Mongolia, Montenegro, Mozambique, Namibia, Norway, New Zealand, Oman, Uganda, Uzbekistan, Pakistan, Panama, Papua New Guinea, Paraguay, the Netherlands, the Philippines, Poland, Portugal, Qatar, the Syrian Arab Republic, Kyrgyzstan, Dem. People's Rep. of Korea, Slovakia, Romania, the United Kingdom, Senegal, Serbia, Sierra Leone, Singapore, Slovenia, Sri Lanka, South Africa, Sweden, Switzerland, Swaziland, Tanzania, Chad, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Ukraine, Viet Nam, Yemen, Zambia and Zimbabwe. (WRC–07)

5.222 Emissions of the radionavigation-satellite service in the bands 149.9–150.05 MHz and 399.9–400.05 MHz may also be used by receiving earth stations of the space research service.

5.223 Recognizing that the use of the band 149.9–150.05 MHz by the fixed and mobile services may cause harmful interference to the radionavigation-satellite service, administrations are urged not to authorize such use in application of No. 4.4.

5.224A The use of the bands 149.9–150.05 MHz and 399.9–400.05 MHz by the mobile-satellite service (Earth-to-space) is limited to the land mobile-satellite service (Earth-to-space) until 1 January 2015.

5.224B The allocation of the bands 149.9–150.05 MHz and 399.9–400.05 MHz to the radionavigation-satellite service shall be effective until 1 January 2015.

5.225 *Additional allocation:* in Australia and India, the band 150.05–153 MHz is also allocated to the radio astronomy service on a primary basis.

5.226 The frequency 156.525 MHz is the international distress, safety and calling frequency for the maritime mobile VHF radiotelephone service using digital selective calling (DSC). The conditions for the use of this frequency and the band 156.4875–156.5625 MHz are contained in Articles 31 and 52, and in Appendix 18.

The frequency 156.8 MHz is the international distress, safety and calling frequency for the maritime mobile VHF radiotelephone service. The conditions for the use of this frequency and the band 156.7625–156.8375 MHz are contained in Article 31 and Appendix 18.

In the bands 156–156.4875 MHz, 156.5625–156.7625 MHz, 156.8375–157.45 MHz, 160.6–160.975 MHz and 161.475–162.05 MHz, each administration shall give priority to the maritime mobile service on only such frequencies as are assigned to stations of the maritime mobile service by the administration (*see* Articles 31 and 52, and Appendix 18).

Any use of frequencies in these bands by stations of other services to which they are allocated should be avoided in areas where such use might cause harmful interference to the maritime mobile VHF radiocommunication service.

However, the frequencies 156.8 MHz and 156.525 MHz and the frequency bands in which priority is given to the maritime mobile service may be used for radiocommunications on inland waterways subject to agreement between interested and affected administrations and taking into account current frequency usage and existing agreements. (WRC–07)

5.227 *Additional allocation:* the bands 156.4875–156.5125 MHz and 156.5375–156.5625 MHz are also allocated to the fixed and land mobile services on a primary basis. The use of these bands by the fixed and land mobile services shall not cause harmful interference to nor claim protection from the maritime mobile VHF radiocommunication service. (WRC–07)

5.227A *Additional allocation:* the bands 161.9625–161.9875 MHz and 162.0125–162.0375 MHz are also allocated to the mobile-satellite service (Earth-to-space) on a secondary basis for the reception of automatic identification system (AIS) emissions from stations operating in the maritime-mobile service (see Appendix 18). (WRC–07)

5.229 *Alternative allocation:* in Morocco, the band 162–174 MHz is allocated to the broadcasting service on a primary basis. The use of this band shall be subject to agreement with administrations having services, operating or planned, in accordance with the Table which are likely to be affected. Stations in existence on 1 January 1981, with their technical characteristics as of that date, are not affected by such agreement.

5.230 *Additional allocation:* in China, the band 163–167 MHz is also allocated to the space operation service (space-to-Earth) on a primary basis, subject to agreement obtained under No. 9.21.

5.231 *Additional allocation:* in Afghanistan, China and Pakistan, the band 167–174 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service into this band shall be subject to agreement with the neighbouring countries in Region 3 whose services are likely to be affected.

5.232 *Additional allocation:* in Japan, the band 170–174 MHz is also allocated to the broadcasting service on a primary basis.

5.233 *Additional allocation:* in China, the band 174–184 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis, subject to agreement obtained under No. 9.21. These services shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations.

5.234 *Different category of service:* in Mexico, the allocation of the band 174–216 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33).

5.235 *Additional allocation:* in Germany, Austria, Belgium, Denmark, Spain, Finland, France, Israel, Italy, Liechtenstein, Malta, Monaco, Norway, the Netherlands, the United Kingdom, Sweden and Switzerland, the band 174–223 MHz is also allocated to the land mobile service on a primary basis. However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, broadcasting stations, existing or planned, in countries other than those listed in this footnote.

5.237 *Additional allocation:* in Congo (Rep. of the), Eritrea, Ethiopia, Gambia, Guinea, the Libyan Arab Jamahiriya, Malawi, Mali, Sierra Leone, Somalia and Chad, the band 174–223 MHz is also allocated to the fixed and mobile services on a secondary basis. (WRC–07)

5.238 *Additional allocation:* in Bangladesh, India, Pakistan and the Philippines, the band 200–216 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.240 *Additional allocation:* in China and India, the band 216–223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

5.241 In Region 2, no new stations in the radiolocation service may be authorized in the band 216–225 MHz. Stations authorized prior to 1 January 1990 may continue to operate on a secondary basis.

5.242 *Additional allocation:* in Canada, the band 216–220 MHz is also allocated to the land mobile service on a primary basis.

5.243 *Additional allocation:* in Somalia, the band 216–225 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to not causing harmful interference to existing or planned broadcasting services in other countries.

5.245 *Additional allocation:* in Japan, the band 222–223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

5.246 *Alternative allocation:* in Spain, France, Israel and Monaco, the band 223–230 MHz is allocated to the broadcasting and land mobile services on a primary basis (*see* No. 5.33) on the basis that, in the preparation of frequency plans, the broadcasting service shall have prior choice of frequencies; and allocated to the fixed and mobile, except land mobile, services on a secondary basis. However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations in Morocco and Algeria.

5.247 *Additional allocation:* in Saudi Arabia, Bahrain, the United Arab Emirates, Jordan, Oman, Qatar and Syrian Arab Republic, the band 223–235 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.250 *Additional allocation:* in China, the band 225–235 MHz is also allocated to the radio astronomy service on a secondary basis.

5.251 *Additional allocation:* in Nigeria, the band 230–235 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to agreement obtained under No. 9.21.

5.252 *Alternative allocation:* in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the bands 230–238 MHz and 246–254 MHz are allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

5.254 The bands 235–322 MHz and 335.4–399.9 MHz may be used by the mobile-satellite service, subject to agreement obtained under No. 9.21, on condition that stations in this service do not cause harmful interference to those of other services

operating or planned to be operated in accordance with the Table of Frequency Allocations except for the additional allocation made in footnote No. 5.256A.

5.255 The bands 312–315 MHz (Earth-to-space) and 387–390 MHz (space-to-Earth) in the mobile-satellite service may also be used by non-geostationary-satellite systems. Such use is subject to coordination under No. 9.11A.

5.256 The frequency 243 MHz is the frequency in this band for use by survival craft stations and equipment used for survival purposes. (WRC–07)

5.256A *Additional allocation:* in China, the Russian Federation, Kazakhstan and Ukraine, the band 258–261 MHz is also allocated to the space research service (Earth-to-space) and space operation service (Earth-to-space) on a primary basis. Stations in the space research service (Earth-to-space) and space operation service (Earth-to-space) shall not cause harmful interference to, nor claim protection from, nor constrain the use and development of the mobile service systems and mobile-satellite service systems operating in the band. Stations in space research service (Earth-to-space) and space operation service (Earth-to-space) shall not constrain the future development of fixed service systems of other countries.

5.257 The band 267–272 MHz may be used by administrations for space telemetry in their countries on a primary basis, subject to agreement obtained under No. 9.21.

5.258 The use of the band 328.6–335.4 MHz by the aeronautical radionavigation service is limited to Instrument Landing Systems (glide path).

5.259 *Additional allocation:* in Egypt, Israel and the Syrian Arab Republic, the band 328.6–335.4 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedure invoked under No. 9.21. (WRC–07)

5.260 Recognizing that the use of the band 399.9–400.05 MHz by the fixed and mobile services may cause harmful interference to the radionavigation satellite service, administrations are urged not to authorize such use in application of No. 4.4.

5.261 Emissions shall be confined in a band of ± 25 kHz about the standard frequency 400.1 MHz.

5.262 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Botswana, Colombia, Costa Rica, Cuba, Egypt, the United Arab Emirates, Ecuador, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kuwait, Liberia, Malaysia, Moldova, Uzbekistan, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, Kyrgyzstan, Romania, Singapore, Somalia, Tajikistan, Turkmenistan and Ukraine, the band 400.05–401 MHz is also allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.263 The band 400.15–401 MHz is also allocated to the space research service in the space-to-space direction for communications with manned space vehicles. In this application, the space research service will not be regarded as a safety service.

5.264 The use of the band 400.15–401 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The power flux-density limit indicated in Annex 1 of Appendix 5 shall apply until such time as a competent world radiocommunication conference revises it.

5.266 The use of the band 406–406.1 MHz by the mobile-satellite service is limited to low power satellite emergency position-indicating radiobeacons (*see* also Article 31). (WRC–07)

5.267 Any emission capable of causing harmful interference to the authorized uses of the band 406–406.1 MHz is prohibited.

5.268 Use of the band 410–420 MHz by the space research service is limited to communications within 5 km of an orbiting, manned space vehicle. The power flux-density at the surface of the Earth produced by emissions from extra-vehicular activities shall not exceed -153 dB(W/m²) for $0° \leq \delta \leq 5°$, $-153 + 0.077\ (\delta - 5)$ dB(W/m²;) for $5° \leq \delta \leq 70°$ and -148 dB(W/m²) for $70° \leq \delta \leq 90°$, where δ is the angle of arrival of the radio-frequency wave and the reference bandwidth is 4 kHz. No. 4.10 does not apply to extra-vehicular activities. In this frequency band the space research (space-to-space) service shall not claim protection from, nor constrain the use and development of, stations of the fixed and mobile services.

5.269 *Different category of service:* in Australia, the United States, India, Japan and the United Kingdom, the allocation of the bands 420–430 MHz and 440–450 MHz to the radiolocation service is on a primary basis (*see* No. 5.33).

5.270 *Additional allocation:* in Australia, the United States, Jamaica and the Philippines, the bands 420–430 MHz and 440–450 MHz are also allocated to the amateur service on a secondary basis.

5.271 *Additional allocation:* in Belarus, China, India, Kyrgyzstan and Turkmenistan, the band 420–460 MHz is also allocated to the aeronautical radionavigation service (radio altimeters) on a secondary basis. (WRC–07)

5.272 *Different category of service:* in France, the allocation of the band 430–434 MHz to the amateur service is on a secondary basis (*see* No. 5.32).

5.273 *Different category of service:* in the Libyan Arab Jamahiriya, the allocation of the bands 430–432 MHz and 438–440 MHz to the radiolocation service is on a secondary basis (*see* No. 5.32).

5.274 *Alternative allocation:* in Denmark, Norway and Sweden, the bands 430–432 MHz and 438–440 MHz are allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.275 *Additional allocation:* in Croatia, Estonia, Finland, Libyan Arab Jamahiriya, The Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Slovenia, the bands 430–432 MHz and 438–440 MHz are also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.276 *Additional allocation:* in Afghanistan, Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burkina Faso, Burundi, Egypt, the United Arab Emirates, Ecuador, Eritrea, Ethiopia, Greece, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Libyan Arab Jamahiriya, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Malta, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Switzerland, Tanzania, Thailand, Togo, Turkey and Yemen, the band 430–440 MHz is also allocated to the fixed service on a primary basis and the bands 430–435 MHz and 438–440 MHz are also allocated to the mobile, except aeronautical mobile, service on a primary basis. (WRC–07)

5.277 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Cameroon, Congo (Rep. of the), Djibouti, the Russian Federation, Georgia, Hungary, Israel, Kazakhstan, Mali, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, Romania, Rwanda, Tajikistan, Chad, Turkmenistan and Ukraine, the band 430–440 MHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.278 *Different category of service:* in Argentina, Colombia, Costa Rica, Cuba, Guyana, Honduras, Panama and Venezuela, the allocation of the band 430–440 MHz to the amateur service is on a primary basis (*see* No. 5.33).

5.279 *Additional allocation:* in Mexico, the bands 430–435 MHz and 438–440 MHz are also allocated on a primary basis to the land mobile service, subject to agreement obtained under No. 9.21.

5.279A The use of this band by sensors in the Earth exploration-satellite service (active) shall be in accordance with Recommendation ITU–R RS.1260–1. Additionally, the Earth exploration-satellite service (active) in the band 432–438 MHz shall not cause harmful interference to the aeronautical radionavigation service in China. The provisions of this footnote in no way diminish the obligation of the Earth exploration-satellite service (active) to operate as a secondary service in accordance with Nos. 5.29 and 5.30.

5.280 In Germany, Austria, Bosnia and Herzegovina, Croatia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Montenegro, Portugal, Serbia, Slovenia and Switzerland, the band 433.05–434.79 MHz (centre frequency 433.92 MHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication services of these countries operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 15.13. (WRC–07)

5.281 *Additional allocation:* in the French overseas departments and communities in Region 2 and India, the band 433.75–434.25 MHz is also allocated to the space operation service (Earth-to-space) on a primary basis. In France and in Brazil, the band is allocated to the same service on a secondary basis.

5.282 In the bands 435–438 MHz, 1260–1270 MHz, 2400–2450 MHz, 3400–3410 MHz (in Regions 2 and 3 only) and 5650–5670

MHz, the amateur-satellite service may operate subject to not causing harmful interference to other services operating in accordance with the Table (*see* No. 5.43). Administrations authorizing such use shall ensure that any harmful interference caused by emissions from a station in the amateur-satellite service is immediately eliminated in accordance with the provisions of No. 25.11. The use of the bands 1260–1270 MHz and 5650–5670 MHz by the amateur-satellite service is limited to the Earth-to-space direction.

5.283 *Additional allocation:* in Austria, the band 438–440 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.284 *Additional allocation:* in Canada, the band 440–450 MHz is also allocated to the amateur service on a secondary basis.

5.285 *Different category of service:* in Canada, the allocation of the band 440–450 MHz to the radiolocation service is on a primary basis (*see* No. 5.33).

5.286 The band 449.75–450.25 MHz may be used for the space operation service (Earth-to-space) and the space research service (Earth-to-space), subject to agreement obtained under No. 9.21.

5.286A The use of the bands 454–456 MHz and 459–460 MHz by the mobile-satellite service is subject to coordination under No. 9.11A.

5.286AA The band 450–470 MHz is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT). *See* Resolution 224 (Rev.WRC–07). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. (WRC–07)

5.286B The use of the band 454–455 MHz in the countries listed in No. 5.286D, 455–456 MHz and 459–460 MHz in Region 2, and 454–456 MHz and 459–460 MHz in the countries listed in No. 5.286E, by stations in the mobile-satellite service, shall not cause harmful interference to, or claim protection from, stations of the fixed or mobile services operating in accordance with the Table of Frequency Allocations.

5.286C The use of the band 454–455 MHz in the countries listed in No. 5.286D, 455–456 MHz and 459–460 MHz in Region 2, and 454–456 MHz and 459–460 MHz in the countries listed in No. 5.286E, by stations in the mobile-satellite service, shall not constrain the development and use of the fixed and mobile services operating in accordance with the Table of Frequency Allocations.

5.286D *Additional allocation:* in Canada, the United States and Panama, the band 454–455 MHz is also allocated to the mobile-satellite service (Earth-to-space) on a primary basis. (WRC–07)

5.286E *Additional allocation:* in Cape Verde, Nepal and Nigeria, the bands 454–456 MHz and 459–460 MHz are also allocated to the mobile-satellite (Earth-to-space) service on a primary basis. (WRC–07)

5.287 In the maritime mobile service, the frequencies 457.525 MHz, 457.550 MHz, 457.575 MHz, 467.525 MHz, 467.550 MHz and 467.575 MHz may be used by on-board communication stations. Where needed, equipment designed for 12.5 kHz channel spacing using also the additional frequencies 457.5375 MHz, 457.5625 MHz, 467.5375 MHz and 467.5625 MHz may be introduced for on-board communications. The use of these frequencies in territorial waters may be subject to the national regulations of the administration concerned. The characteristics of the equipment used shall conform to those specified in Recommendation ITU–R M.1174–2. (WRC–07)

5.288 In the territorial waters of the United States and the Philippines, the preferred frequencies for use by on-board communication stations shall be 457.525 MHz, 457.550 MHz, 457.575 MHz and 457.600 MHz paired, respectively, with 467.750 MHz, 467.775 MHz, 467.800 MHz and 467.825 MHz. The characteristics of the equipment used shall conform to those specified in Recommendation ITU–R M.1174–2. (WRC–07) (FCC)

5.289 Earth exploration-satellite service applications, other than the meteorological-satellite service, may also be used in the bands 460–470 MHz and 1690–1710 MHz for space-to-Earth transmissions subject to not causing harmful interference to stations operating in accordance with the Table.

5.290 *Different category of service:* in Afghanistan, Azerbaijan, Belarus, China, the Russian Federation, Japan, Mongolia, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 460–470 MHz to the meteorological-satellite service (space-to-Earth) is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21. (WRC–07)

5.291 *Additional allocation:* in China, the band 470–485 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis subject to agreement obtained under No. 9.21 and subject to not causing harmful interference to existing and planned broadcasting stations.

5.291A *Additional allocation:* in Germany, Austria, Denmark, Estonia, Finland, Liechtenstein, Norway, Netherlands, the Czech Rep. and Switzerland, the band 470–494 MHz is also allocated to the radiolocation service on a secondary basis. This use is limited to the operation of wind profiler radars in accordance with Resolution 217 (WRC–97).

5.292 *Different category of service:* in Mexico, the allocation of the band 470–512 MHz to the fixed and mobile services, and in Argentina, Uruguay and Venezuela to the mobile service, is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21. (WRC–07)

5.293 *Different category of service:* in Canada, Chile, Colombia, Cuba, the United States, Guyana, Honduras, Jamaica, Mexico, Panama and Peru, the allocation of the bands 470–512 MHz and 614–806 MHz to the fixed service is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21. In Canada, Chile, Colombia, Cuba, the United States, Guyana, Honduras, Jamaica, Mexico, Panama and Peru, the allocation of the bands 470–512 MHz and 614–698 MHz to the mobile service is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21. In Argentina and Ecuador, the allocation of the band 470–512 MHz to the fixed and mobile services is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21. (WRC–07)

5.294 *Additional allocation:* in Saudi Arabia, Burundi, Cameroon, Côte d'Ivoire, Egypt, Ethiopia, Israel, the Libyan Arab Jamahiriya, Kenya, Malawi, the Syrian Arab Republic, Sudan, Chad and Yemen, the band 470–582 MHz is also allocated to the fixed service on a secondary basis. (WRC–07)

5.296 *Additional allocation:* in Germany, Saudi Arabia, Austria, Belgium, Côte d'Ivoire, Denmark, Egypt, Spain, Finland, France, Ireland, Israel, Italy, the Libyan Arab Jamahiriya, Jordan, Lithuania, Malta, Morocco, Monaco, Norway, Oman, the Netherlands, Portugal, the Syrian Arab Republic, the United Kingdom, Sweden, Switzerland, Swaziland and Tunisia, the band 470–790 MHz is also allocated on a secondary basis to the land mobile service, intended for applications ancillary to broadcasting. Stations of the land mobile service in the countries listed in this footnote shall not cause harmful interference to existing or planned stations operating in accordance with the Table in countries other than those listed in this footnote. (WRC–07)

5.297 *Additional allocation:* in Canada, Costa Rica, Cuba, El Salvador, the United States, Guatemala, Guyana, Honduras, Jamaica and Mexico, the band 512–608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under No. 9.21. (WRC–07)

5.298 *Additional allocation:* in India, the band 549.75–550.25 MHz is also allocated to the space operation service (space-to-Earth) on a secondary basis.

5.300 *Additional allocation:* in Saudi Arabia, Egypt, Israel, the Libyan Arab Jamahiriya, Jordan, Oman, the Syrian Arab Republic and Sudan, the band 582–790 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis. (WRC–07)

5.302 *Additional allocation:* in the United Kingdom, the band 590–598 MHz is also allocated to the aeronautical radionavigation service on a primary basis. All new assignments to stations in the aeronautical radionavigation service, including those transferred from the adjacent bands, shall be subject to coordination with the Administrations of the following countries: Germany, Belgium, Denmark, Spain, France, Ireland, Luxembourg, Morocco, Norway and the Netherlands.

5.304 *Additional allocation:* in the African Broadcasting Area (*see* Nos. 5.10 to 5.13), the band 606–614 MHz is also allocated to the radio astronomy service on a primary basis.

5.305 *Additional allocation:* in China, the band 606–614 MHz is also allocated to the radio astronomy service on a primary basis.

5.306 *Additional allocation:* in Region 1, except in the African Broadcasting Area (*see* Nos. 5.10 to 5.13), and in Region 3, the band 608–614 MHz is also allocated to the radio astronomy service on a secondary basis.

5.307 *Additional allocation:* in India, the band 608–614 MHz is also allocated to the radio astronomy service on a primary basis.

5.309 *Different category of service:* in Costa Rica, El Salvador and Honduras, the allocation of the band 614–806 MHz to the fixed service is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21.

5.311A For the frequency band 620–790 MHz, see also Resolution 549 (WRC–07). (WRC–07)

5.312 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, the Russian Federation, Georgia, Hungary, Kazakhstan, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the band 645–862 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.313A The band, or portions of the band 698–790 MHz, in Bangladesh, China, Korea (Rep. of), India, Japan, New Zealand, Papua New Guinea, Philippines and Singapore are identified for use by these administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of these bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. In China, the use of IMT in this band will not start until 2015. (WRC–07)

5.313B *Different category of service:* in Brazil, the allocation of the band 698–806 MHz to the mobile service is on a secondary basis (*see* No. 5.32). (WRC–07)

5.314 *Additional allocation:* in Austria, Italy, Moldova, Uzbekistan, Kyrgyzstan, the United Kingdom and Swaziland, the band 790–862 MHz is also allocated to the land mobile service on a secondary basis. (WRC–07)

5.315 *Alternative allocation:* in Greece, Italy and Tunisia, the band 790–838 MHz is allocated to the broadcasting service on a primary basis.

5.316 *Additional allocation:* in Germany, Saudi Arabia, Bosnia and Herzegovina, Burkina Faso, Cameroon, Côte d'Ivoire, Croatia, Denmark, Egypt, Finland, Greece, Israel, the Libyan Arab Jamahiriya, Jordan, Kenya, The Former Yugoslav Republic of Macedonia, Liechtenstein, Mali, Monaco, Montenegro, Norway, the Netherlands, Portugal, the United Kingdom, the Syrian Arab Republic, Serbia, Sweden and Switzerland, the band 790–830 MHz, and in these same countries and in Spain, France, Gabon and Malta, the band 830–862 MHz, are also allocated to the mobile, except aeronautical mobile, service on a primary basis. However, stations of the mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to, or claim protection from, stations of services operating in accordance with the Table in countries other than those mentioned in connection with the band. This allocation is effective until 16 June 2015. (WRC–07)

5.316A *Additional allocation:* in Spain, France, Gabon and Malta, the band 790–830 MHz, in Angola, Bahrain, Benin, Botswana, Congo (Rep. of the), French overseas departments and communities of Region 1, Gambia, Ghana, Guinea, Kuwait, Lesotho, Lebanon, Malawi, Morocco, Mauritania, Mozambique, Namibia, Niger, Oman, Uganda, Poland, Qatar, Rwanda, Senegal, Sudan, South Africa, Swaziland, Tanzania, Chad, Togo, Yemen, Zambia and Zimbabwe, the band 790–862 MHz, in Georgia, the band 806–862 MHz, and in Lithuania, the band 830–862 MHz is also allocated to the mobile, except aeronautical mobile, service on a primary basis subject to the agreement by the administrations concerned obtained under No. 9.21 and under the GE06 Agreement, as appropriate, including those administrations mentioned in No. 5.312 where appropriate. However, stations of the mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause unacceptable interference to, nor claim protection from, stations of services operating in accordance with the Table in countries other than those mentioned in connection with the band. Frequency assignments to the mobile service under this allocation in Lithuania and Poland shall not be used without the agreement of the Russian Federation and Belarus. This allocation is effective until 16 June 2015. (WRC–07)

5.316B In Region 1, the allocation to the mobile, except aeronautical mobile, service on a primary basis in the frequency band 790–862 MHz shall come into effect from 17 June 2015 and shall be subject to agreement obtained under No. 9.21 with respect to the aeronautical radionavigation service in countries mentioned in No. 5.312. For countries party to the GE06 Agreement, the use of stations of the mobile service is also subject to the successful application of the procedures of that Agreement. Resolutions 224 (Rev.WRC–07) and 749 (WRC–07) shall apply. (WRC–07)

5.317 *Additional allocation:* in Region 2 (except Brazil and the United States), the band 806–890 MHz is also allocated to the mobile-satellite service on a primary basis, subject to agreement obtained under No. 9.21. The use of this service is intended for operation within national boundaries.

5.317A Those parts of the band 698–960 MHz in Region 2 and the band 790–960 MHz in Regions 1 and 3 which are allocated to the mobile service on a primary basis are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT). *See* Resolutions 224 (Rev.WRC–07) and 749 (WRC–07). This identification does not preclude the use of these bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. (WRC–07)

5.318 *Additional allocation:* in Canada, the United States and Mexico, the bands 849–851 MHz and 894–896 MHz are also allocated to the aeronautical mobile service on a primary basis, for public correspondence with aircraft. The use of the band 849–851 MHz is limited to transmissions from aeronautical stations and the use of the band 894–896 MHz is limited to transmissions from aircraft stations.

5.319 *Additional allocation:* in Belarus, the Russian Federation and Ukraine, the bands 806–840 MHz (Earth-to-space) and 856–890 MHz (space-to-Earth) are also allocated to the mobile-satellite, except aeronautical mobile-satellite (R), service. The use of these bands by this service shall not cause harmful interference to, or claim protection from, services in other countries operating in accordance with the Table of Frequency Allocations and is subject to special agreements between the administrations concerned.

5.320 *Additional allocation:* in Region 3, the bands 806–890 MHz and 942–960 MHz are also allocated to the mobile-satellite, except aeronautical mobile-satellite (R), service on a primary basis, subject to agreement obtained under No. 9.21. The use of this service is limited to operation within national boundaries. In seeking such agreement, appropriate protection shall be afforded to services operating in accordance with the Table, to ensure that no harmful interference is caused to such services.

5.322 In Region 1, in the band 862–960 MHz, stations of the broadcasting service shall be operated only in the African Broadcasting Area (*see* Nos. 5.10 to 5.13) excluding Algeria, Egypt, Spain, the Libyan Arab Jamahiriya, Morocco, Namibia, Nigeria, South Africa, Tanzania, Zimbabwe and Zambia, subject to agreement obtained under No. 9.21.

5.323 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, the Russian Federation, Hungary, Kazakhstan, Moldova, Uzbekistan, Poland, Kyrgyzstan, Romania, Tajikistan, Turkmenistan and Ukraine, the band 862–960 MHz is also allocated to the aeronautical radionavigation service on a primary basis. Such use is subject to agreement obtained under No. 9.21 with administrations concerned and limited to ground-based radiobeacons in operation on 27 October 1997 until the end of their lifetime. (WRC–07)

5.325 *Different category of service:* in the United States, the allocation of the band 890–942 MHz to the radiolocation service is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21.

5.325A *Different category of service:* in Cuba, the allocation of the band 902–915 MHz to the land mobile service is on a primary basis.

5.326 *Different category of service:* in Chile, the band 903–905 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21.

5.327 *Different category of service:* in Australia, the allocation of the band 915–928 MHz to the radiolocation service is on a primary basis (*see* No. 5.33).

5.327A The use of the band 960–1164 MHz by the aeronautical mobile (R) service is limited to systems that operate in accordance with recognized international aeronautical standards. Such use shall be in accordance with Resolution 417. (WRC–07)

5.328 The use of the band 960–1215 MHz by the aeronautical radionavigation service is reserved on a worldwide basis for the operation and development of airborne electronic aids to air navigation and any directly associated ground-based facilities.

5.328A Stations in the radionavigation-satellite service in the band 1164–1215 MHz

shall operate in accordance with the provisions of Resolution 609 (Rev.WRC–07) and shall not claim protection from stations in the aeronautical radionavigation service in the band 960–1215 MHz. No. 5.43A does not apply. The provisions of No. 21.18 shall apply. (WRC–07)

5.328B The use of the bands 1164–1300 MHz, 1559–1610 MHz and 5010–5030 MHz by systems and networks in the radionavigation-satellite service for which complete coordination or notification information, as appropriate, is received by the Radiocommunication Bureau after 1 January 2005 is subject to the application of the provisions of Nos. 9.12, 9.12A and 9.13. Resolution 610 (WRC–03) shall also apply; however, in the case of radionavigation-satellite service (space-to-space) networks and systems, Resolution 610 (WRC–03) shall only apply to transmitting space stations. In accordance with No. 5.329A, for systems and networks in the radionavigation-satellite service (space-to-space) in the bands 1215–1300 MHz and 1559–1610 MHz, the provisions of Nos. 9.7, 9.12, 9.12A and 9.13 shall only apply with respect to other systems and networks in the radionavigation-satellite service (space-to-space). (WRC–07)

5.329 Use of the radionavigation-satellite service in the band 1215–1300 MHz shall be subject to the condition that no harmful interference is caused to, and no protection is claimed from, the radionavigation service authorized under No. 5.331. Furthermore, the use of the radionavigation-satellite service in the band 1215–1300 MHz shall be subject to the condition that no harmful interference is caused to the radiolocation service. No. 5.43 shall not apply in respect of the radiolocation service. Resolution 608 (WRC–03) shall apply.

5.329A Use of systems in the radionavigation-satellite service (space-to-space) operating in the bands 1215–1300 MHz and 1559–1610 MHz is not intended to provide safety service applications, and shall not impose any additional constraints on radionavigation-satellite service (space-to-Earth) systems or on other services operating in accordance with the Table of Frequency Allocations. (WRC–07)

5.330 *Additional allocation:* in Angola, Saudi Arabia, Bahrain, Bangladesh, Cameroon, China, the United Arab Emirates, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Japan, Jordan, Kuwait, Lebanon, Mozambique, Nepal, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, Somalia, Sudan, Chad, Togo and Yemen, the band 1215–1300 MHz is also allocated to the fixed and mobile services on a primary basis.

5.331 *Additional allocation:* in Algeria, Germany, Saudi Arabia, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Burkina Faso, Burundi, Cameroon, China, Korea (Rep. of), Croatia, Denmark, Egypt, the United Arab Emirates, Estonia, the Russian Federation, Finland, France, Ghana, Greece, Guinea, Equatorial Guinea, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Jordan, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Lesotho, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Mauritania, Montenegro, Nigeria, Norway, Oman, the Netherlands, Poland, Portugal, Qatar, the Syrian Arab Republic, Dem. People's Rep. of Korea, Slovakia, the United Kingdom, Serbia, Slovenia, Somalia, Sudan, Sri Lanka, South Africa, Sweden, Switzerland, Thailand, Togo, Turkey, Venezuela and Viet Nam, the band 1215–1300 MHz is also allocated to the radionavigation service on a primary basis. In Canada and the United States, the band 1240–1300 MHz is also allocated to the radionavigation service, and use of the radionavigation service shall be limited to the aeronautical radionavigation service. (WRC–07)

5.332 In the band 1215–1260 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service, the radionavigation-satellite service and other services allocated on a primary basis.

5.334 *Additional allocation:* in Canada and the United States, the band 1350–1370 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.335 In Canada and the United States in the band 1240–1300 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause interference to, claim protection from, or otherwise impose constraints on operation or development of the aeronautical radionavigation service. (FCC)

5.335A In the band 1260–1300 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service and other services allocated by footnotes on a primary basis.

5.337 The use of the bands 1300–1350 MHz, 2700–2900 MHz and 9000–9200 MHz by the aeronautical radionavigation service is restricted to ground-based radars and to associated airborne transponders which transmit only on frequencies in these bands and only when actuated by radars operating in the same band.

5.337A The use of the band 1300–1350 MHz by earth stations in the radionavigation-satellite service and by stations in the radiolocation service shall not cause harmful interference to, nor constrain the operation and development of, the aeronautical-radionavigation service.

5.338 In Mongolia, Kyrgyzstan, Slovakia, the Czech Rep. and Turkmenistan, existing installations of the radionavigation service may continue to operate in the band 1350–1400 MHz. (WRC–07)

5.338A In the bands 1350–1400 MHz, 1427–1452 MHz, 22.55–23.55 GHz, 30–31.3 GHz, 49.7–50.2 GHz, 50.4–50.9 GHz and 51.4–52.6 GHz, Resolution 750 (WRC–07) applies. (WRC–07)

5.339 The bands 1370–1400 MHz, 2640–2655 MHz, 4950–4990 MHz and 15.20–15.35 GHz are also allocated to the space research (passive) and Earth exploration-satellite (passive) services on a secondary basis.

5.340 All emissions are prohibited in the following bands:

1400–1427 MHz,
2690–2700 MHz, except those provided for by No. 5.422,
10.68–10.7 GHz, except those provided for by No. 5.483,
15.35–15.4 GHz, except those provided for by No. 5.511,
23.6–24 GHz,
31.3–31.5 GHz,
31.5–31.8 GHz, in Region 2,
48.94–49.04 GHz, from airborne stations
50.2–50.4 GHz,[2]
52.6–54.25 GHz,
86–92 GHz,
100–102 GHz,
109.5–111.8 GHz,
114.25–116 GHz,
148.5–151.5 GHz,
164–167 GHz,
182–185 GHz,
190–191.8 GHz,
200–209 GHz,
226–231.5 GHz,
250–252 GHz.

5.341 In the bands 1400–1727 MHz, 101–120 GHz and 197–220 GHz, passive research is being conducted by some countries in a programme for the search for intentional emissions of extraterrestrial origin.

5.342 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, the Russian Federation, Uzbekistan, Kyrgystan and Ukraine, the band 1429–1535 MHz is also allocated to the aeronautical mobile service on a primary basis exclusively for the purposes of aeronautical telemetry within the national territory. As of 1 April 2007, the use of the band 1452–1492 MHz is subject to agreement between the administrations concerned.

5.343 In Region 2, the use of the band 1435–1535 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

5.344 *Alternative allocation:* in the United States, the band 1452–1525 MHz is allocated to the fixed and mobile services on a primary basis (*see* also No. 5.343).

5.345 Use of the band 1452–1492 MHz by the broadcasting-satellite service, and by the broadcasting service, is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev.WRC–03). (FCC)

5.348 The use of the band 1518–1525 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. In the band 1518–1525 MHz stations in the mobile-satellite service shall not claim protection from the stations in the fixed service. No. 5.43A does not apply.

5.348A In the band 1518–1525 MHz, the coordination threshold in terms of the power flux-density levels at the surface of the Earth in application of No. 9.11A for space stations in the mobile-satellite (space-to-Earth) service, with respect to the land mobile

[2] 5.340.1 The allocation to the Earth exploration-satellite service (passive) and the space research service (passive) in the band 50.2–50.4 GHz should not impose undue constraints on the use of the adjacent bands by the primary allocated services in those bands.

service use for specialized mobile radios or used in conjunction with public switched telecommunication networks (PSTN) operating within the territory of Japan, shall be −150 dB(W/m²) in any 4 kHz band for all angles of arrival, instead of those given in Table 5–2 of Appendix 5. In the band 1518–1525 MHz stations in the mobile-satellite service shall not claim protection from stations in the mobile service in the territory of Japan. No. 5.43A does not apply.

5.348B In the band 1518–1525 MHz, stations in the mobile-satellite service shall not claim protection from aeronautical mobile telemetry stations in the mobile service in the territory of the United States (see Nos. 5.343 and 5.344) and in the countries listed in No. 5.342. No. 5.43A does not apply.

5.349 *Different category of service:* in Saudi Arabia, Azerbaijan, Bahrain, Cameroon, Egypt, France, Iran (Islamic Republic of), Iraq, Israel, Kazakhstan, Kuwait, The Former Yugoslav Republic of Macedonia, Lebanon, Morocco, Qatar, Syrian Arab Republic, Kyrgyzstan, Turkmenistan and Yemen, the allocation of the band 1525–1530 MHz to the mobile, except aeronautical mobile, service is on a primary basis (*see* No. 5.33). (WRC–07)

5.350 *Additional allocation:* in Azerbaijan, Kyrgyzstan and Turkmenistan, the band 1525–1530 MHz is also allocated to the aeronautical mobile service on a primary basis.

5.351 The bands 1525–1544 MHz, 1545–1559 MHz, 1626.5–1645.5 MHz and 1646.5–1660.5 MHz shall not be used for feeder links of any service. In exceptional circumstances, however, an earth station at a specified fixed point in any of the mobile-satellite services may be authorized by an administration to communicate via space stations using these bands.

5.351A For the use of the bands 1518–1544 MHz, 1545–1559 MHz, 1610–1645.5 MHz, 1646.5–1660.5 MHz, 1668–1675 MHz, 1980–2010 MHz, 2170–2200 MHz, 2483.5–2520 MHz and 2670–2690 MHz by the mobile-satellite service, see Resolutions 212 (Rev.WRC–07) and 225 (Rev.WRC–07). (WRC–07)

5.352A In the band 1525–1530 MHz, stations in the mobile-satellite service, except stations in the maritime mobile-satellite service, shall not cause harmful interference to, or claim protection from, stations of the fixed service in France and French overseas communities of Region 3, Algeria, Saudi Arabia, Egypt, Guinea, India, Israel, Italy, Jordan, Kuwait, Mali, Malta, Morocco, Mauritania, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syrian Arab Republic, Tanzania, Viet Nam and Yemen notified prior to 1 April 1998.

5.353A In applying the procedures of Section II of Article 9 to the mobile-satellite service in the bands 1530–1544 MHz and 1626.5–1645.5 MHz, priority shall be given to accommodating the spectrum requirements for distress, urgency and safety communications of the Global Maritime Distress and Safety System (GMDSS). Maritime mobile-satellite distress, urgency and safety communications shall have priority access and immediate availability over all other mobile satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, distress, urgency and safety communications of the GMDSS. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services. (The provisions of Resolution 222 (Rev.WRC–07) shall apply.) (FCC)

5.354 The use of the bands 1525–1559 MHz and 1626.5–1660.5 MHz by the mobile-satellite services is subject to coordination under No. 9.11A.

5.355 *Additional allocation:* in Bahrain, Bangladesh, Congo (Rep. of the), Egypt, Eritrea, Iraq, Israel, Kuwait, Lebanon, Malta, Qatar, Syrian Arab Republic, Somalia, Sudan, Chad, Togo and Yemen, the bands 1540–1559 MHz, 1610–1645.5 MHz and 1646.5–1660 MHz are also allocated to the fixed service on a secondary basis.

5.356 The use of the band 1544–1545 MHz by the mobile-satellite service (space-to-Earth) is limited to distress and safety communications (*see* Article 31).

5.357 Transmissions in the band 1545–1555 MHz from terrestrial aeronautical stations directly to aircraft stations, or between aircraft stations, in the aeronautical mobile (R) service are also authorized when such transmissions are used to extend or supplement the satellite-to-aircraft links.

5.357A In applying the procedures of Section II of Article 9 to the mobile-satellite service in the bands 1545–1555 MHz and 1646.5–1656.5 MHz, priority shall be given to accommodating the spectrum requirements of the aeronautical mobile-satellite (R) service providing transmission of messages with priority 1 to 6 in Article 44. Aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44 shall have priority access and immediate availability, by pre-emption if necessary, over all other mobile-satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services. (The provisions of Resolution 222 (Rev.WRC–07) shall apply.) (FCC)

5.359 *Additional allocation:* in Germany, Saudi Arabia, Armenia, Austria, Azerbaijan, Belarus, Benin, Bulgaria, Cameroon, Spain, the Russian Federation, France, Gabon, Georgia, Greece, Guinea, Guinea-Bissau, the Libyan Arab Jamahiriya, Jordan, Kazakhstan, Kuwait, Lebanon, Lithuania, Mauritania, Moldova, Uganda, Uzbekistan, Pakistan, Poland, the Syrian Arab Republic, Kyrgyzstan, the Dem. People's Rep. of Korea, Romania, Swaziland, Tajikistan, Tanzania, Tunisia, Turkmenistan and Ukraine, the bands 1550–1559 MHz, 1610–1645.5 MHz and 1646.5–1660 MHz are also allocated to the fixed service on a primary basis. Administrations are urged to make all practicable efforts to avoid the implementation of new fixed-service stations in these bands. (WRC–07)

5.362A In the United States, in the bands 1555–1559 MHz and 1656.5–1660.5 MHz, the aeronautical mobile-satellite (R) service shall have priority access and immediate availability, by pre-emption if necessary, over all other mobile-satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services.

5.362B *Additional allocation:* The band 1559–1610 MHz is also allocated to the fixed service on a primary basis until 1 January 2010 in Algeria, Saudi Arabia, Cameroon, Libyan Arab Jamahiriya, Jordan, Mali, Mauritania, Syrian Arab Republic and Tunisia. After this date, the fixed service may continue to operate on a secondary basis until 1 January 2015, at which time this allocation shall no longer be valid. The band 1559–1610 MHz is also allocated to the fixed service on a secondary basis in Algeria, Germany, Armenia, Azerbaijan, Belarus, Benin, Bulgaria, Spain, Russian Federation, France, Gabon, Georgia, Guinea, Guinea-Bissau, Kazakhstan, Lithuania, Moldova, Nigeria, Uganda, Uzbekistan, Pakistan, Poland, Kyrgyzstan, Dem. People's Rep. of Korea, Romania, Senegal, Swaziland, Tajikistan, Tanzania, Turkmenistan and Ukraine until 1 January 2015, at which time this allocation shall no longer be valid. Administrations are urged to take all practicable steps to protect the radionavigation-satellite service and the aeronautical radionavigation service and not authorize new frequency assignments to fixed-service systems in this band. (WRC–07)

5.362C *Additional allocation:* in Congo (Rep. of the), Egypt, Eritrea, Iraq, Israel, Jordan, Malta, Qatar, the Syrian Arab Republic, Somalia, Sudan, Chad, Togo and Yemen, the band 1559–1610 MHz is also allocated to the fixed service on a secondary basis until 1 January 2015, at which time this allocation shall no longer be valid. Administrations are urged to take all practicable steps to protect the radionavigation-satellite service and not authorize new frequency assignments to fixed-service systems in this band. (WRC–07)

5.364 The use of the band 1610–1626.5 MHz by the mobile-satellite service (Earth-to-space) and by the radiodetermination-satellite service (Earth-to-space) is subject to coordination under No. 9.11A. A mobile earth station operating in either of the services in this band shall not produce a peak e.i.r.p. density in excess of −15 dB(W/4 kHz) in the part of the band used by systems operating in accordance with the provisions of No. 5.366 (to which No. 4.10 applies), unless otherwise agreed by the affected administrations. In the part of the band where such systems are not operating, the mean e.i.r.p. density of a mobile earth station shall not exceed −3 dB(W/4 kHz). Stations of the mobile-satellite service shall not claim protection from stations in the aeronautical radionavigation service, stations operating in accordance with the provisions of No. 5.366 and stations in the fixed service operating in accordance with the provisions of No. 5.359. Administrations responsible for the

coordination of mobile-satellite networks shall make all practicable efforts to ensure protection of stations operating in accordance with the provisions of No. 5.366.

5.365 The use of the band 1613.8–1626.5 MHz by the mobile-satellite service (space-to-Earth) is subject to coordination under No. 9.11A.

5.366 The band 1610–1626.5 MHz is reserved on a worldwide basis for the use and development of airborne electronic aids to air navigation and any directly associated ground-based or satellite-borne facilities. Such satellite use is subject to agreement obtained under No. 9.21.

5.367 *Additional allocation:* The bands 1610–1626.5 MHz and 5000–5150 MHz are also allocated to the aeronautical mobile-satellite (R) service on a primary basis, subject to agreement obtained under No. 9.21.

5.368 With respect to the radiodetermination-satellite and mobile-satellite services the provisions of No. 4.10 do not apply in the band 1610–1626.5 MHz, with the exception of the aeronautical radionavigation-satellite service.

5.369 *Different category of service:* in Angola, Australia, Burundi, China, Eritrea, Ethiopia, India, Iran (Islamic Republic of), Israel, the Libyan Arab Jamahiriya, Lebanon, Liberia, Madagascar, Mali, Pakistan, Papua New Guinea, Syrian Arab Republic, the Dem. Rep. of the Congo, Sudan, Swaziland, Togo and Zambia, the allocation of the band 1610–1626.5 MHz to the radiodetermination-satellite service (Earth-to-space) is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21 from countries not listed in this provision.

5.370 *Different category of service:* in Venezuela, the allocation to the radiodetermination-satellite service in the band 1610–1626.5 MHz (Earth-to-space) is on a secondary basis.

5.371 *Additional allocation:* in Region 1, the bands 1610–1626.5 MHz (Earth-to-space) and 2483.5–2500 MHz (space-to-Earth) are also allocated to the radiodetermination-satellite service on a secondary basis, subject to agreement obtained under No. 9.21.

5.372 Harmful interference shall not be caused to stations of the radio astronomy service using the band 1610.6–1613.8 MHz by stations of the radiodetermination-satellite and mobile-satellite services (No. 29.13 applies).

5.374 Mobile earth stations in the mobile-satellite service operating in the bands 1631.5–1634.5 MHz and 1656.5–1660 MHz shall not cause harmful interference to stations in the fixed service operating in the countries listed in No. 5.359.

5.375 The use of the band 1645.5–1646.5 MHz by the mobile-satellite service (Earth-to-space) and for inter-satellite links is limited to distress and safety communications (*see* Article 31).

5.376 Transmissions in the band 1646.5–1656.5 MHz from aircraft stations in the aeronautical mobile (R) service directly to terrestrial aeronautical stations, or between aircraft stations, are also authorized when such transmissions are used to extend or supplement the aircraft-to-satellite links.

5.376A Mobile earth stations operating in the band 1660–1660.5 MHz shall not cause harmful interference to stations in the radio astronomy service.

5.379 *Additional allocation:* in Bangladesh, India, Indonesia, Nigeria and Pakistan, the band 1660.5–1668.4 MHz is also allocated to the meteorological aids service on a secondary basis.

5.379A Administrations are urged to give all practicable protection in the band 1660.5–1668.4 MHz for future research in radio astronomy, particularly by eliminating air-to-ground transmissions in the meteorological aids service in the band 1664.4–1668.4 MHz as soon as practicable.

5.379B The use of the band 1668–1675 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. In the band 1668–1668.4 MHz, Resolution 904 (WRC–07) shall apply. (WRC–07)

5.379C In order to protect the radio astronomy service in the band 1668–1670 MHz, the aggregate power flux-density values produced by mobile earth stations in a network of the mobile-satellite service operating in this band shall not exceed -181 dB(W/m^2) in 10 MHz and -194 dB(W/m^2) in any 20 kHz at any radio astronomy station recorded in the Master International Frequency Register, for more than 2% of integration periods of 2000s.

5.379D For sharing of the band 1668.4–1675 MHz between the mobile-satellite service and the fixed and mobile services, Resolution 744 (Rev.WRC–07) shall apply. (WRC–07)

5.379E In the band 1668.4–1675 MHz, stations in the mobile-satellite service shall not cause harmful interference to stations in the meteorological aids service in China, Iran (Islamic Republic of), Japan and Uzbekistan. In the band 1668.4–1675 MHz, administrations are urged not to implement new systems in the meteorological aids service and are encouraged to migrate existing meteorological aids service operations to other bands as soon as practicable.

5.380A In the band 1670–1675 MHz, stations in the mobile-satellite service shall not cause harmful interference to, nor constrain the development of, existing earth stations in the meteorological-satellite service notified before 1 January 2004. Any new assignment to these earth stations in this band shall also be protected from harmful interference from stations in the mobile-satellite service. (WRC–07)

5.381 *Additional allocation:* in Afghanistan, Costa Rica, Cuba, India, Iran (Islamic Republic of) and Pakistan, the band 1690–1700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.382 *Different category of service:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Congo (Rep. of the), Egypt, the United Arab Emirates, Eritrea, Ethiopia, the Russian Federation, Guinea, Iraq, Israel, Jordan, Kazakhstan, Kuwait, the Former Yugoslav Republic of Macedonia, Lebanon, Mauritania, Moldova, Mongolia, Oman, Uzbekistan, Poland, Qatar, the Syrian Arab Republic, Kyrgyzstan, Serbia, Somalia, Tajikistan, Tanzania, Turkmenistan, Ukraine and Yemen, the allocation of the band 1690–1700 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (*see* No. 5.33), and in the Dem. People's Rep. of Korea, the allocation of the band 1690–1700 MHz to the fixed service is on a primary basis (*see* No. 5.33) and to the mobile, except aeronautical mobile, service on a secondary basis. (WRC–07)

5.384 *Additional allocation:* in India, Indonesia and Japan, the band 1700–1710 MHz is also allocated to the space research service (space-to-Earth) on a primary basis.

5.384A The bands, or portions of the bands, 1710–1885 MHz, 2300–2400 MHz and 2500–2690 MHz, are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–07). This identification does not preclude the use of these bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. (WRC–07)

5.385 *Additional allocation:* the band 1718.8–1722.2 MHz is also allocated to the radio astronomy service on a secondary basis for spectral line observations.

5.386 *Additional allocation:* the band 1750–1850 MHz is also allocated to the space operation (Earth-to-space) and space research (Earth-to-space) services in Region 2, in Australia, Guam, India, Indonesia and Japan on a primary basis, subject to agreement obtained under No. 9.21, having particular regard to troposcatter systems.

5.387 *Additional allocation:* in Belarus, Georgia, Kazakhstan, Mongolia, Kyrgyzstan, Slovakia, Romania, Tajikistan and Turkmenistan, the band 1770–1790 MHz is also allocated to the meteorological-satellite service on a primary basis, subject to agreement obtained under No. 9.21. (WRC–07)

5.388 The bands 1885–2025 MHz and 2110–2200 MHz are intended for use, on a worldwide basis, by administrations wishing to implement International Mobile Telecommunications–2000 (IMT–2000). Such use does not preclude the use of these bands by other services to which they are allocated. The bands should be made available for IMT–2000 in accordance with Resolution 212 (Rev. WRC–07). (*See* also Resolution 223 (Rev. WRC–07).) (FCC)

5.388A In Regions 1 and 3, the bands 1885–1980 MHz, 2010–2025 MHz and 2110–2170 MHz and, in Region 2, the bands 1885–1980 MHz and 2110–2160 MHz may be used by high altitude platform stations as base stations to provide International Mobile Telecommunications–2000 (IMT–2000), in accordance with Resolution 221 (Rev. WRC–07). Their use by IMT–2000 applications using high altitude platform stations as base stations does not preclude the use of these bands by any station in the services to which they are allocated and does not establish priority in the Radio Regulations. (FCC)

5.388B In Algeria, Saudi Arabia, Bahrain, Benin, Burkina Faso, Cameroon, Comoros, Côte d'Ivoire, China, Cuba, Djibouti, Egypt, United Arab Emirates, Eritrea, Ethiopia, Gabon, Ghana, India, Iran (Islamic Republic of), Israel, the Libyan Arab Jamahiriya, Jordan, Kenya, Kuwait, Mali, Morocco, Mauritania, Nigeria, Oman, Uganda, Qatar, the Syrian Arab Republic, Senegal,

Singapore, Sudan, Tanzania, Chad, Togo, Tunisia, Yemen, Zambia and Zimbabwe, for the purpose of protecting fixed and mobile services, including IMT–2000 mobile stations, in their territories from co-channel interference, a high altitude platform station (HAPS) operating as an IMT–2000 base station in neighbouring countries, in the bands referred to in No. 5.388A, shall not exceed a co-channel power flux-density of -127 dB(W/(m^2 · MHz)) at the Earth's surface outside a country's borders unless explicit agreement of the affected administration is provided at the time of the notification of HAPS.

5.389A The use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (Rev.WRC–2000). (WRC–07)

5.389B The use of the band 1980–1990 MHz by the mobile-satellite service shall not cause harmful interference to or constrain the development of the fixed and mobile services in Argentina, Brazil, Canada, Chile, Ecuador, the United States, Honduras, Jamaica, Mexico, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

5.389C The use of the bands 2010–2025 MHz and 2160–2170 MHz in Region 2 by the mobile-satellite service is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (Rev. WRC–2000). (WRC–07)

5.389E The use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite service in Region 2 shall not cause harmful interference to or constrain the development of the fixed and mobile services in Regions 1 and 3.

5.389F In Algeria, Benin, Cape Verde, Egypt, Iran (Islamic Republic of), Mali, Syrian Arab Republic and Tunisia, the use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service shall neither cause harmful interference to the fixed and mobile services, nor hamper the development of those services prior to 1 January 2005, nor shall the former service request protection from the latter services.

5.391 In making assignments to the mobile service in the bands 2025–2110 MHz and 2200–2290 MHz, administrations shall not introduce high-density mobile systems, as described in Recommendation ITU–R SA.1154, and shall take that Recommendation into account for the introduction of any other type of mobile system.

5.392 Administrations are urged to take all practicable measures to ensure that space-to-space transmissions between two or more non-geostationary satellites, in the space research, space operations and Earth exploration-satellite services in the bands 2025–2110 MHz and 2200–2290 MHz, shall not impose any constraints on Earth-to-space, space-to-Earth and other space-to-space transmissions of those services and in those bands between geostationary and non-geostationary satellites.

5.393 *Additional allocation:* in Canada, the United States, India and Mexico, the band 2310–2360 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial sound broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev. WRC–03), with the exception of *resolves* 3 in regard to the limitation on broadcasting-satellite systems in the upper 25 MHz. (WRC–07)

5.394 In the United States, the use of the band 2300–2390 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services. In Canada, the use of the band 2360–2400 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services. (WRC–07)

5.395 In France and Turkey, the use of the band 2310–2360 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

5.396 Space stations of the broadcasting-satellite service in the band 2310–2360 MHz operating in accordance with No. 5.393 that may affect the services to which this band is allocated in other countries shall be coordinated and notified in accordance with Resolution 33 (Rev. WRC–03). Complementary terrestrial broadcasting stations shall be subject to bilateral coordination with neighbouring countries prior to their bringing into use. (FCC)

5.397 *Different category of service:* in France, the band 2450–2500 MHz is allocated on a primary basis to the radiolocation service (*see* No. 5.33). Such use is subject to agreement with administrations having services operating or planned to operate in accordance with the Table of Frequency Allocations which may be affected.

5.398 In respect of the radiodetermination-satellite service in the band 2483.5–2500 MHz, the provisions of No. 4.10 do not apply.

5.399 In Region 1, in countries other than those listed in No. 5.400, harmful interference shall not be caused to, or protection shall not be claimed from, stations of the radiolocation service by stations of the radiodetermination satellite service.

5.400 *Different category of service:* in Angola, Australia, Bangladesh, Burundi, China, Eritrea, Ethiopia, India, Iran (Islamic Republic of), the Libyan Arab Jamahiriya, Lebanon, Liberia, Madagascar, Mali, Pakistan, Papua New Guinea, the Dem. Rep. of the Congo, the Syrian Arab Republic, Sudan, Swaziland, Togo and Zambia, the allocation of the band 2483.5–2500 MHz to the radiodetermination-satellite service (space-to-Earth) is on a primary basis (*see* No. 5.33), subject to agreement obtained under No. 9.21 from countries not listed in this provision.

5.402 The use of the band 2483.5–2500 MHz by the mobile-satellite and the radiodetermination-satellite services is subject to the coordination under No. 9.11A. Administrations are urged to take all practicable steps to prevent harmful interference to the radio astronomy service from emissions in the 2483.5–2500 MHz band, especially those caused by second-harmonic radiation that would fall into the 4990–5000 MHz band allocated to the radio astronomy service worldwide.

5.403 Subject to agreement obtained under No. 9.21, the band 2520–2535 MHz may also be used for the mobile-satellite (space-to-Earth), except aeronautical mobile-satellite, service for operation limited to within national boundaries. The provisions of No. 9.11A apply. (WRC–07)

5.404 *Additional allocation:* in India and Iran (Islamic Republic of), the band 2500–2516.5 MHz may also be used for the radiodetermination-satellite service (space-to-Earth) for operation limited to within national boundaries, subject to agreement obtained under No. 9.21.

5.405 *Additional allocation:* in France, the band 2500–2550 MHz is also allocated to the radiolocation service on a primary basis. Such use is subject to agreement with the administrations having services operating or planned to operate in accordance with the Table which may be affected.

5.407 In the band 2500–2520 MHz, the power flux-density at the surface of the Earth from space stations operating in the mobile-satellite (space-to-Earth) service shall not exceed -152 dB (W/(m^2 · 4 kHz)) in Argentina, unless otherwise agreed by the administrations concerned.

5.410 The band 2500–2690 MHz may be used for tropospheric scatter systems in Region 1, subject to agreement obtained under No. 9.21. Administrations shall make all practicable efforts to avoid developing new tropospheric scatter systems in this band. When planning new tropospheric scatter radio-relay links in this band, all possible measures shall be taken to avoid directing the antennas of these links towards the geostationary-satellite orbit. (WRC–07)

5.412 *Alternative allocation:* in Azerbaijan, Kyrgyzstan and Turkmenistan, the band 2500–2690 MHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. (WRC–07)

5.413 In the design of systems in the broadcasting-satellite service in the bands between 2500 MHz and 2690 MHz, administrations are urged to take all necessary steps to protect the radio astronomy service in the band 2690–2700 MHz.

5.414 The allocation of the frequency band 2500–2520 MHz to the mobile-satellite service (space-to-Earth) is subject to coordination under No. 9.11A. (WRC–07)

5.414A In Japan and India, the use of the bands 2500–2520 MHz and 2520–2535 MHz, under No. 5.403, by a satellite network in the mobile-satellite service (space-to-Earth) is limited to operation within national boundaries and subject to the application of No. 9.11A. The following pfd values shall be used as a threshold for coordination under No. 9.11A, for all conditions and for all methods of modulation, in an area of 1000 km around the territory of the administration notifying the mobile-satellite service network:

-136 dB(W/(m^2 · MHz)) for $0° \leq \theta \leq 5°$

$-136 + 0.55\ (\theta - 5)$ dB(W/(m^2 · MHz)) for $5° < \theta \leq 25°$

-125 dB(W/(m^2 · MHz)) for $25° < \theta \leq 90°$

where θ is the angle of arrival of the incident wave above the horizontal plane, in degrees. Outside this area Table 21–4 of Article 21 shall apply. Furthermore, the coordination thresholds in Table 5–2 of Annex 1 to Appendix 5 of the Radio Regulations (Edition

of 2004), in conjunction with the applicable provisions of Articles 9 and 11 associated with No. 9.11A, shall apply to systems for which complete notification information has been received by the Radicommunication Bureau by 14 November 2007 and that have been brought into use by that date. (WRC–07)

5.415 The use of the bands 2500–2690 MHz in Region 2 and 2500–2535 MHz and 2655–2690 MHz in Region 3 by the fixed-satellite service is limited to national and regional systems, subject to agreement obtained under No. 9.21, giving particular attention to the broadcasting-satellite service in Region 1. (WRC–07)

5.415A *Additional allocation:* in India and Japan, subject to agreement obtained under No. 9.21, the band 2515–2535 MHz may also be used for the aeronautical mobile-satellite service (space-to-Earth) for operation limited to within their national boundaries.

5.416 The use of the band 2520–2670 MHz by the broadcasting-satellite service is limited to national and regional systems for community reception, subject to agreement obtained under No. 9.21. The provisions of No. 9.19 shall be applied by administrations in this band in their bilateral and multilateral negotiations. (WRC–07)

5.417A In applying provision No. 5.418, in Korea (Rep. of) and Japan, *resolves* 3 of Resolution 528 (Rev. WRC–03) is relaxed to allow the broadcasting-satellite service (sound) and the complementary terrestrial broadcasting service to additionally operate on a primary basis in the band 2605–2630 MHz. This use is limited to systems intended for national coverage. An administration listed in this provision shall not have simultaneously two overlapping frequency assignments, one under this provision and the other under No. 5.416. The provisions of No. 5.416 and Table 21–4 of Article 21 do not apply. Use of non-geostationary-satellite systems in the broadcasting-satellite service (sound) in the band 2605–2630 MHz is subject to the provisions of Resolution 539 (Rev. WRC–03). The power flux-density at the Earth's surface produced by emissions from a geostationary broadcasting-satellite service (sound) space station operating in the band 2605–2630 MHz for which complete Appendix 4 coordination information, or notification information, has been received after 4 July 2003, for all conditions and for all methods of modulation, shall not exceed the following limits:

-130 dB(W/(m^2 · MHz)) for $0° \leq \theta \leq 5°$

$-130 + 0.4\ (\theta - 5)$ dB(W/(m^2 · MHz)) for $5° < \theta \leq 25°$

-122 dB(W/(m^2 · MHz)) for $25° < \theta \leq 90°$

where θ is the angle of arrival of the incident wave above the horizontal plane, in degrees. These limits may be exceeded on the territory of any country whose administration has so agreed. In the case of the broadcasting-satellite service (sound) networks of Korea (Rep. of), as an exception to the limits above, the power flux-density value of -122 dB(W/(m^2 · MHz)) shall be used as a threshold for coordination under No. 9.11 in an area of 1000 km around the territory of the administration notifying the broadcasting-satellite service (sound) system, for angles of arrival greater than 35°.

5.417B In Korea (Rep. of) and Japan, use of the band 2605–2630 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.417A, for which complete Appendix 4 coordination information, or notification information, has been received after 4 July 2003, is subject to the application of the provisions of No. 9.12A, in respect of geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received after 4 July 2003, and No. 22.2 does not apply. No. 22.2 shall continue to apply with respect to geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received before 5 July 2003.

5.417C Use of the band 2605–2630 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.417A, for which complete Appendix 4 coordination information, or notification information, has been received after 4 July 2003, is subject to the application of the provisions of No. 9.12.

5.417D Use of the band 2605–2630 MHz by geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, has been received after 4 July 2003 is subject to the application of the provisions of No. 9.13 with respect to non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.417A, and No. 22.2 does not apply.

5.418 *Additional allocation:* in Korea (Rep. of), India, Japan, Pakistan and Thailand, the band 2535–2655 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev. WRC–03). The provisions of No. 5.416 and Table 21–4 of Article 21, do not apply to this additional allocation. Use of non-geostationary-satellite systems in the broadcasting-satellite service (sound) is subject to Resolution 539 (Rev. WRC–03). Geostationary broadcasting-satellite service (sound) systems for which complete Appendix 4 coordination information has been received after 1 June 2005 are limited to systems intended for national coverage. The power flux-density at the Earth's surface produced by emissions from a geostationary broadcasting-satellite service (sound) space station operating in the band 2630–2655 MHz, and for which complete Appendix 4 coordination information has been received after 1 June 2005, shall not exceed the following limits, for all conditions and for all methods of modulation:

-130 dB(W/(m^2 · MHz)) for $0° \leq \theta \leq 5°$

$-130 + 0.4\ (\theta - 5)$ dB(W/(m^2 · MHz)) for $5° < \theta \leq 25°$

-122 dB(W/(m^2 · MHz)) for $25° < \theta \leq 90°$

where θ is the angle of arrival of the incident wave above the horizontal plane, in degrees. These limits may be exceeded on the territory of any country whose administration has so agreed. As an exception to the limits above, the pfd value of –122 dB(W/(m^2 · MHz)) shall be used as a threshold for coordination under No. 9.11 in an area of 1500 km around the territory of the administration notifying the broadcasting-satellite service (sound) system.

In addition, an administration listed in this provision shall not have simultaneously two overlapping frequency assignments, one under this provision and the other under No. 5.416 for systems for which complete Appendix 4 coordination information has been received after 1 June 2005. (WRC–07)

5.418A In certain Region 3 countries listed in No. 5.418, use of the band 2630–2655 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound) for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000, is subject to the application of the provisions of No. 9.12A, in respect of geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received after 2 June 2000, and No. 22.2 does not apply. No. 22.2 shall continue to apply with respect to geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received before 3 June 2000.

5.418B Use of the band 2630–2655 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.418, for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000, is subject to the application of the provisions of No. 9.12.

5.418C Use of the band 2630–2655 MHz by geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000 is subject to the application of the provisions of No. 9.13 with respect to non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to No. 5.418 and No. 22.2 does not apply.

5.419 When introducing systems of the mobile-satellite service in the band 2670–2690 MHz, administrations shall take all necessary steps to protect the satellite systems operating in this band prior to 3 March 1992. The coordination of mobile-satellite systems in the band shall be in accordance with No. 9.11A. (WRC–07)

5.420 The band 2655–2670 MHz may also be used for the mobile-satellite (Earth-to-space), except aeronautical mobile-satellite, service for operation limited to within national boundaries, subject to agreement obtained under No. 9.21. The coordination under No. 9.11A applies. (WRC–07)

5.422 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Brunei Darussalam, Congo (Rep. of the), Côte d'Ivoire, Cuba, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Georgia, Guinea, Guinea-Bissau, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Mauritania, Moldova, Mongolia, Montenegro, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syrian Arab Republic, Kyrgyzstan, the Dem. Rep. of the Congo, Romania, Somalia, Tajikistan, Tunisia, Turkmenistan, Ukraine and Yemen, the band 2690–2700 MHz is also allocated to the fixed

and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985. (WRC–07)

5.423 In the band 2700–2900 MHz, ground-based radars used for meteorological purposes are authorized to operate on a basis of equality with stations of the aeronautical radionavigation service.

5.424 *Additional allocation:* in Canada, the band 2850–2900 MHz is also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars.

5.424A In the band 2900–3100 MHz, stations in the radiolocation service shall not cause harmful interference to, nor claim protection from, radar systems in the radionavigation service.

5.425 In the band 2900–3100 MHz, the use of the shipborne interrogator-transponder (SIT) system shall be confined to the sub-band 2930–2950 MHz.

5.426 The use of the band 2900–3100 MHz by the aeronautical radionavigation service is limited to ground-based radars.

5.427 In the bands 2900–3100 MHz and 9300–9500 MHz, the response from radar transponders shall not be capable of being confused with the response from radar beacons (racons) and shall not cause interference to ship or aeronautical radars in the radionavigation service, having regard, however, to No. 4.9.

5.428 *Additional allocation:* in Azerbaijan, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 3100–3300 MHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.429 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, China, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Japan, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Oman, Uganda, Pakistan, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea and Yemen, the band 3300–3400 MHz is also allocated to the fixed and mobile services on a primary basis. The countries bordering the Mediterranean shall not claim protection for their fixed and mobile services from the radiolocation service. (WRC–07)

5.430 *Additional allocation:* in Azerbaijan, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 3300–3400 MHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.430A *Different category of service:* in Albania, Algeria, Germany, Andorra, Saudi Arabia, Austria, Azerbaijan, Bahrain, Belgium, Benin, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Cameroon, Cyprus, Vatican, Congo (Rep. of the), Côte d'Ivoire, Croatia, Denmark, Egypt, Spain, Estonia, Finland, France and French overseas departments and communities in Region 1, Gabon, Georgia, Greece, Guinea, Hungary, Ireland, Iceland, Israel, Italy, Jordan, Kuwait, Lesotho, Latvia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Lithuania, Malawi, Mali, Malta, Morocco, Mauritania, Moldova, Monaco, Mongolia, Montenegro, Mozambique, Namibia, Niger, Norway, Oman, Netherlands, Poland, Portugal, Qatar, the Syrian Arab Republic, Slovakia, Czech Rep., Romania, United Kingdom, San Marino, Senegal, Serbia, Sierra Leone, Slovenia, South Africa, Sweden, Switzerland, Swaziland, Chad, Togo, Tunisia, Turkey, Ukraine, Zambia and Zimbabwe, the band 3400–3600 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis subject to agreement obtained under No. 9.21 with other administrations and is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this band, it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed -154.5 dB(W/(m^2 · 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to above. Stations of the mobile service in the band 3400–3600 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). This allocation is effective from 17 November 2010. (WRC–07)

5.431 *Additional allocation:* in Germany, Israel and the United Kingdom, the band 3400–3475 MHz is also allocated to the amateur service on a secondary basis.

5.431A *Different category of service:* in Argentina, Brazil, Chile, Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala, Mexico, Paraguay, Suriname, Uruguay, Venezuela and French overseas departments and communities in Region 2, the band 3400–3500 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21. Stations of the mobile service in the band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). (WRC–07)

5.432 *Different category of service:* in Korea (Rep. of), Japan and Pakistan, the allocation of the band 3400–3500 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

5.432A In Korea (Rep. of), Japan and Pakistan, the band 3400–3500 MHz is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed -154.5 dB(W/(m^2 · 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to above. Stations of the mobile service in the band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). (WRC–07)

5.432B *Different category of service:* in Bangladesh, China, India, Iran (Islamic Republic of), New Zealand, Singapore and French overseas communities in Region 3, the band 3400–3500 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21 with other administrations and is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed -154.5 dB(W/(m^2 · 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station) with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to above. Stations of the mobile service in the band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). This allocation is effective from 17 November 2010. (WRC–07)

5.433 In Regions 2 and 3, in the band 3400–3600 MHz the radiolocation service is allocated on a primary basis. However, all administrations operating radiolocation systems in this band are urged to cease operations by 1985. Thereafter, administrations shall take all practicable steps to protect the fixed-satellite service and coordination requirements shall not be imposed on the fixed-satellite service.

5.433A In Bangladesh, China, Korea (Rep. of), India, Iran (Islamic Republic of), Japan, New Zealand, Pakistan and French overseas communities in Region 3, the band 3500–3600 MHz is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed -154.5 dB (W/(m^2 · 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to above. Stations of the mobile service in the band 3500–3600 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). (WRC–07)

5.435 In Japan, in the band 3620–3700 MHz, the radiolocation service is excluded.

5.438 Use of the band 4200–4400 MHz by the aeronautical radionavigation service is reserved exclusively for radio altimeters installed on board aircraft and for the associated transponders on the ground. However, passive sensing in the Earth exploration-satellite and space research services may be authorized in this band on a secondary basis (no protection is provided by the radio altimeters).

5.439 *Additional allocation:* in Iran (Islamic Republic of) and Libyan Arab Jamahiriya, the band 4200–4400 MHz is also allocated to the fixed service on a secondary basis.

5.440 The standard frequency and time signal-satellite service may be authorized to use the frequency 4202 MHz for space-to-Earth transmissions and the frequency 6427 MHz for Earth-to-space transmissions. Such transmissions shall be confined within the limits of ± 2 MHz of these frequencies, subject to agreement obtained under No. 9.21.

5.440A In Region 2 (except Brazil, Cuba, French overseas departments and communities, Guatemala, Paraguay, Uruguay and Venezuela), and in Australia, the band 4400–4940 MHz may be used for aeronautical mobile telemetry for flight testing by aircraft stations (*see* No. 1.83). Such use shall be in accordance with Resolution 416 (WRC–07) and shall not cause harmful interference to, nor claim protection from, the fixed-satellite and fixed services. Any such use does not preclude the use of these bands by other mobile service applications or by other services to which these bands are allocated on a co-primary basis and does not establish priority in the Radio Regulations. (WRC–07)

5.441 The use of the bands 4500–4800 MHz (space-to-Earth), 6725–7025 MHz (Earth-to-space) by the fixed-satellite service shall be in accordance with the provisions of Appendix 30B. The use of the bands 10.7–10.95 GHz (space-to-Earth), 11.2–11.45 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by geostationary-satellite systems in the fixed-satellite service shall be in accordance with the provisions of Appendix 30B. The use of the bands 10.7–10.95 GHz (space-to-Earth), 11.2–11.45 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by a non-geostationary-satellite system in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.442 In the bands 4825–4835 MHz and 4950–4990 MHz, the allocation to the mobile service is restricted to the mobile, except aeronautical mobile, service. In Region 2 (except Brazil, Cuba, Guatemala, Paraguay, Uruguay and Venezuela), and in Australia, the band 4825–4835 MHz is also allocated to the aeronautical mobile service, limited to aeronautical mobile telemetry for flight testing by aircraft stations. Such use shall be in accordance with Resolution 416 (WRC–07) and shall not cause harmful interference to the fixed service. (WRC–07)

5.443 *Different category of service:* in Argentina, Australia and Canada, the allocation of the bands 4825–4835 MHz and 4950–4990 MHz to the radio astronomy service is on a primary basis (see No. 5.33).

5.443B In order not to cause harmful interference to the microwave landing system operating above 5030 MHz, the aggregate power flux-density produced at the Earth's surface in the band 5030–5150 MHz by all the space stations within any radionavigation-satellite service system (space-to-Earth) operating in the band 5010–5030 MHz shall not exceed –124.5 dB(W/m^2) in a 150 kHz band. In order not to cause harmful interference to the radio astronomy service in the band 4990–5000 MHz, radionavigation-satellite service systems operating in the band 5010–5030 MHz shall comply with the limits in the band 4990–5000 MHz defined in Resolution 741 (WRC–03).

5.444 The band 5030–5150 MHz is to be used for the operation of the international standard system (microwave landing system) for precision approach and landing. In the band 5030–5091 MHz, the requirements of this system shall take precedence over other uses of this band. For the use of the band 5091–5150 MHz, No. 5.444A and Resolution 114 (Rev.WRC–03) apply. (WRC–07)

5.444A *Additional allocation:* the band 5091–5150 MHz is also allocated to the fixed-satellite service (Earth-to-space) on a primary basis. This allocation is limited to feeder links of non-geostationary satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A.

In the band 5091–5150 MHz, the following conditions also apply:

—Prior to 1 January 2018, the use of the band 5091–5150 MHz by feeder links of non-geostationary-satellite systems in the mobile-satellite service shall be made in accordance with Resolution 114 (Rev.WRC–03);

—After 1 January 2016, no new assignments shall be made to earth stations providing feeder links of non-geostationary mobile-satellite systems;

—After 1 January 2018, the fixed-satellite service will become secondary to the aeronautical radionavigation service. (WRC–07)

5.444B The use of the band 5091–5150 MHz by the aeronautical mobile service is limited to:

—Systems operating in the aeronautical mobile (R) service and in accordance with international aeronautical standards, limited to surface applications at airports. Such use shall be in accordance with Resolution 748 (WRC–07);

—Aeronautical telemetry transmissions from aircraft stations (*see* No. 1.83) in accordance with Resolution 418 (WRC–07);

—Aeronautical security transmissions. Such use shall be in accordance with Resolution 419 (WRC–07). (WRC–07)

5.446 *Additional allocation:* in the countries listed in Nos. 5.369 and 5.400, the band 5150–5216 MHz is also allocated to the radiodetermination-satellite service (space-to-Earth) on a primary basis, subject to agreement obtained under No. 9.21. In Region 2, the band is also allocated to the radiodetermination-satellite service (space-to-Earth) on a primary basis. In Regions 1 and 3, except those countries listed in Nos. 5.369 and 5.400, the band is also allocated to the radiodetermination-satellite service (space-to-Earth) on a secondary basis. The use by the radiodetermination-satellite service is limited to feeder links in conjunction with the radiodetermination-satellite service operating in the bands 1610–1626.5 MHz and/or 2483.5–2500 MHz. The total power flux-density at the Earth's surface shall in no case

exceed –159 dB (W/m²) in any 4 kHz band for all angles of arrival.

5.446A The use of the bands 5150–5350 MHz and 5470–5725 MHz by the stations in the mobile, except aeronautical mobile, service shall be in accordance with Resolution 229 (WRC–03). (WRC–07)

5.446B In the band 5150–5250 MHz, stations in the mobile service shall not claim protection from earth stations in the fixed-satellite service. No. 5.43A does not apply to the mobile service with respect to fixed-satellite service earth stations.

5.446C *Additional allocation:* in Region 1 (except in Algeria, Saudi Arabia, Bahrain, Egypt, United Arab Emirates, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Syrian Arab Republic, Sudan and Tunisia) and in Brazil, the band 5150–5250 MHz is also allocated to the aeronautical mobile service on a primary basis, limited to aeronautical telemetry transmissions from aircraft stations (see No. 1.83), in accordance with Resolution 418 (WRC–07). These stations shall not claim protection from other stations operating in accordance with Article 5. No. 5.43A does not apply. (WRC–07)

5.447 *Additional allocation:* in Côte d'Ivoire, Israel, Lebanon, Pakistan, the Syrian Arab Republic and Tunisia, the band 5150–5250 MHz is also allocated to the mobile service, on a primary basis, subject to agreement obtained under No. 9.21. In this case, the provisions of Resolution 229 (WRC–03) do not apply. (WRC–07)

5.447A The allocation to the fixed-satellite service (Earth-to-space) is limited to feeder links of non-geostationary-satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A.

5.447B *Additional allocation:* the band 5150–5216 MHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis. This allocation is limited to feeder links of non-geostationary-satellite systems in the mobile-satellite service and is subject to provisions of No. 9.11A. The power flux-density at the Earth's surface produced by space stations of the fixed-satellite service operating in the space-to-Earth direction in the band 5150–5216 MHz shall in no case exceed –164 dB (W/m²) in any 4 kHz band for all angles of arrival.

5.447C Administrations responsible for fixed-satellite service networks in the band 5150–5250 MHz operated under Nos. 5.447A and 5.447B shall coordinate on an equal basis in accordance with No. 9.11A with administrations responsible for non-geostationary-satellite networks operated under No. 5.446 and brought into use prior to 17 November 1995. Satellite networks operated under No. 5.446 brought into use after 17 November 1995 shall not claim protection from, and shall not cause harmful interference to, stations of the fixed-satellite service operated under Nos. 5.447A and 5.447B.

5.447D The allocation of the band 5250–5255 MHz to the space research service on a primary basis is limited to active spaceborne sensors. Other uses of the band by the space research service are on a secondary basis.

5.447E *Additional allocation:* The band 5250–5350 MHz is also allocated to the fixed service on a primary basis in the following countries in Region 3: Australia, Korea (Rep. of), India, Indonesia, Iran (Islamic Republic of), Japan, Malaysia, Papua New Guinea, the Philippines, Dem. People's Rep. of Korea, Sri Lanka, Thailand and Viet Nam. The use of this band by the fixed service is intended for the implementation of fixed wireless access systems and shall comply with Recommendation ITU–R F.1613. In addition, the fixed service shall not claim protection from the radiodetermination, Earth exploration-satellite (active) and space research (active) services, but the provisions of No. 5.43A do not apply to the fixed service with respect to the Earth exploration-satellite (active) and space research (active) services. After implementation of fixed wireless access systems in the fixed service with protection for the existing radiodetermination systems, no more stringent constraints should be imposed on the fixed wireless access systems by future radiodetermination implementations. (WRC–07)

5.447F In the band 5250–5350 MHz, stations in the mobile service shall not claim protection from the radiolocation service, the Earth exploration-satellite service (active) and the space research service (active). These services shall not impose on the mobile service more stringent protection criteria, based on system characteristics and interference criteria, than those stated in Recommendations ITU–R M.1638 and ITU–R RS.1632.

5.448 *Additional allocation:* in Azerbaijan, Libyan Arab Jamahiriya, Mongolia, Kyrgyzstan, Slovakia, Romania and Turkmenistan, the band 5250–5350 MHz is also allocated to the radionavigation service on a primary basis.

5.448A The Earth exploration-satellite (active) and space research (active) services in the frequency band 5250–5350 MHz shall not claim protection from the radiolocation service. No. 5.43A does not apply.

5.448B The Earth exploration-satellite service (active) operating in the band 5350–5570 MHz and space research service (active) operating in the band 5460–5570 MHz shall not cause harmful interference to the aeronautical radionavigation service in the band 5350–5460 MHz, the radionavigation service in the band 5460–5470 MHz and the maritime radionavigation service in the band 5470–5570 MHz.

5.448C The space research service (active) operating in the band 5350–5460 MHz shall not cause harmful interference to nor claim protection from other services to which this band is allocated.

5.448D In the frequency band 5350–5470 MHz, stations in the radiolocation service shall not cause harmful interference to, nor claim protection from, radar systems in the aeronautical radionavigation service operating in accordance with No. 5.449.

5.449 The use of the band 5350–5470 MHz by the aeronautical radionavigation service is limited to airborne radars and associated airborne beacons.

5.450 *Additional allocation:* in Austria, Azerbaijan, Iran (Islamic Republic of), Mongolia, Kyrgyzstan, Romania, Turkmenistan and Ukraine, the band 5470–5650 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

5.450A In the band 5470–5725 MHz, stations in the mobile service shall not claim protection from radiodetermination services. Radiodetermination services shall not impose on the mobile service more stringent protection criteria, based on system characteristics and interference criteria, than those stated in Recommendation ITU–R M.1638.

5.450B In the frequency band 5470–5650 MHz, stations in the radiolocation service, except ground-based radars used for meteorological purposes in the band 5600–5650 MHz, shall not cause harmful interference to, nor claim protection from, radar systems in the maritime radionavigation service.

5.451 *Additional allocation:* in the United Kingdom, the band 5470–5850 MHz is also allocated to the land mobile service on a secondary basis. The power limits specified in Nos. 21.2, 21.3, 21.4 and 21.5 shall apply in the band 5725–5850 MHz.

5.452 Between 5600 MHz and 5650 MHz, ground-based radars used for meteorological purposes are authorized to operate on a basis of equality with stations of the maritime radionavigation service.

5.453 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Egypt, the United Arab Emirates, Gabon, Guinea, Equatorial Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Japan, Jordan, Kenya, Kuwait, Lebanon, Madagascar, Malaysia, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Sri Lanka, Swaziland, Tanzania, Chad, Thailand, Togo, Viet Nam and Yemen, the band 5650–5850 MHz is also allocated to the fixed and mobile services on a primary basis. In this case, the provisions of Resolution 229 (WRC–03) do not apply.

5.454 *Different category of service:* in Azerbaijan, the Russian Federation, Georgia, Mongolia, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 5670–5725 MHz to the space research service is on a primary basis (*see* No. 5.33). (WRC–07)

5.455 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Cuba, the Russian Federation, Georgia, Hungary, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 5670–5850 MHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.456 *Additional allocation:* in Cameroon, the band 5755–5850 MHz is also allocated to the fixed service on a primary basis.

5.457A In the bands 5925–6425 MHz and 14–14.5 GHz, earth stations located on board vessels may communicate with space stations of the fixed-satellite service. Such use shall be in accordance with Resolution 902 (WRC–03).

5.457B In the bands 5925–6425 MHz and 14–14.5 GHz, earth stations located on board vessels may operate with the characteristics and under the conditions contained in

Resolution 902 (WRC–03) in Algeria, Saudi Arabia, Bahrain, Comoros, Djibouti, Egypt, United Arab Emirates, the Libyan Arab Jamahiriya, Jordan, Kuwait, Morocco, Mauritania, Oman, Qatar, the Syrian Arab Republic, Sudan, Tunisia and Yemen, in the maritime mobile-satellite service on a secondary basis. Such use shall be in accordance with Resolution 902 (WRC–03).

5.457C In Region 2 (except Brazil, Cuba, French overseas departments and communities, Guatemala, Paraguay, Uruguay and Venezuela), the band 5925–6700 MHz may be used for aeronautical mobile telemetry for flight testing by aircraft stations (*see* No. 1.83). Such use shall be in accordance with Resolution 416 (WRC–07) and shall not cause harmful interference to, nor claim protection from, the fixed-satellite and fixed services. Any such use does not preclude the use of these bands by other mobile service applications or by other services to which these bands are allocated on a co-primary basis and does not establish priority in the Radio Regulations. (WRC–07)

5.458 In the band 6425–7075 MHz, passive microwave sensor measurements are carried out over the oceans. In the band 7075–7250 MHz, passive microwave sensor measurements are carried out. Administrations should bear in mind the needs of the Earth exploration-satellite (passive) and space research (passive) services in their future planning of the bands 6425–7025 MHz and 7075–7250 MHz.

5.458A In making assignments in the band 6700–7075 MHz to space stations of the fixed-satellite service, administrations are urged to take all practicable steps to protect spectral line observations of the radio astronomy service in the band 6650–6675.2 MHz from harmful interference from unwanted emissions.

5.458B The space-to-Earth allocation to the fixed-satellite service in the band 6700–7075 MHz is limited to feeder links for non-geostationary satellite systems of the mobile-satellite service and is subject to coordination under No. 9.11A. The use of the band 6700–7075 MHz (space-to-Earth) by feeder links for non-geostationary satellite systems in the mobile-satellite service is not subject to No. 22.2.

5.458C Administrations making submissions in the band 7025–7075 MHz (Earth-to-space) for geostationary-satellite systems in the fixed-satellite service after 17 November 1995 shall consult on the basis of relevant ITU–R Recommendations with the administrations that have notified and brought into use non-geostationary-satellite systems in this frequency band before 18 November 1995 upon request of the latter administrations. This consultation shall be with a view to facilitating shared operation of both geostationary-satellite systems in the fixed-satellite service and non-geostationary-satellite systems in this band.

5.459 *Additional allocation:* in the Russian Federation, the frequency bands 7100–7155 MHz and 7190–7235 MHz are also allocated to the space operation service (Earth-to-space) on a primary basis, subject to agreement obtained under No. 9.21.

5.460 The use of the band 7145–7190 MHz by the space research service (Earth-to-space) is restricted to deep space; no emissions to deep space shall be effected in the band 7190–7235 MHz. Geostationary satellites in the space research service operating in the band 7190–7235 MHz shall not claim protection from existing and future stations of the fixed and mobile services and No. 5.43A does not apply.

5.461 *Additional allocation:* the bands 7250–7375 MHz (space-to-Earth) and 7900–8025 MHz (Earth-to-space) are also allocated to the mobile-satellite service on a primary basis, subject to agreement obtained under No. 9.21.

5.461A The use of the band 7450–7550 MHz by the meteorological-satellite service (space-to-Earth) is limited to geostationary-satellite systems. Non-geostationary meteorological-satellite systems in this band notified before 30 November 1997 may continue to operate on a primary basis until the end of their lifetime.

5.461B The use of the band 7750–7850 MHz by the meteorological-satellite service (space-to-Earth) is limited to non-geostationary satellite systems.

5.462A In Regions 1 and 3 (except for Japan), in the band 8025–8400 MHz, the Earth exploration-satellite service using geostationary satellites shall not produce a power flux-density in excess of the following provisional values for angles of arrival (θ), without the consent of the affected administration:

-174 dB(W/m²) in a 4 kHz band for $0° \leq \theta < 5°$

$-174 + 0.5\ (\theta - 5)$ dB(W/m²) in a 4 kHz band for $5° \leq \theta < 25°$

-164 dB(W/m²) in a 4 kHz band for $25° \leq \theta \leq 90°$

These values are subject to study under Resolution 124 (Rev. WRC–2000). (FCC)

5.463 Aircraft stations are not permitted to transmit in the band 8025–8400 MHz.

5.465 In the space research service, the use of the band 8400–8450 MHz is limited to deep space.

5.466 *Different category of service:* in Israel, Singapore and Sri Lanka, the allocation of the band 8400–8500 MHz to the space research service is on a secondary basis (see No. 5.32).

5.468 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burundi, Cameroon, China, Congo (Rep. of the), Costa Rica, Egypt, the United Arab Emirates, Gabon, Guyana, Indonesia, Iran (Islamic Republic of), Iraq, the Libyan Arab Jamahiriya, Jamaica, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, Qatar, Syrian Arab Republic, the Dem. People's Rep. of Korea, Senegal, Singapore, Somalia, Swaziland, Tanzania, Chad, Togo, Tunisia and Yemen, the band 8500–8750 MHz is also allocated to the fixed and mobile services on a primary basis.

5.469 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Hungary, Lithuania, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the band 8500–8750 MHz is also allocated to the land mobile and radionavigation services on a primary basis.

5.469A In the band 8550–8650 MHz, stations in the Earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, or constrain the use and development of, stations of the radiolocation service.

5.470 The use of the band 8750–8850 MHz by the aeronautical radionavigation service is limited to airborne Doppler navigation aids on a centre frequency of 8800 MHz.

5.471 *Additional allocation:* in Algeria, Germany, Bahrain, Belgium, China, Egypt, the United Arab Emirates, France, Greece, Indonesia, Iran (Islamic Republic of), the Libyan Arab Jamahiriya, the Netherlands, Qatar and Sudan, the bands 8825–8850 MHz and 9000–9200 MHz are also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars only. (WRC–07)

5.472 In the bands 8850–9000 MHz and 9200–9225 MHz, the maritime radionavigation service is limited to shore-based radars.

5.473 *Additional allocation:* in Armenia, Austria, Azerbaijan, Belarus, Cuba, the Russian Federation, Georgia, Hungary, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Romania, Tajikistan, Turkmenistan and Ukraine, the bands 8850–9000 MHz and 9200–9300 MHz are also allocated to the radionavigation service on a primary basis. (WRC–07)

5.473A In the band 9000–9200 MHz, stations operating in the radiolocation service shall not cause harmful interference to, nor claim protection from, systems identified in No. 5.337 operating in the aeronautical radionavigation service, or radar systems in the maritime radionavigation service operating in this band on a primary basis in the countries listed in No. 5.471. (WRC–07)

5.474 In the band 9200–9500 MHz, search and rescue transponders (SART) may be used, having due regard to the appropriate ITU–R Recommendation (*see* also Article 31).

5.475 The use of the band 9300–9500 MHz by the aeronautical radionavigation service is limited to airborne weather radars and ground-based radars. In addition, ground-based radar beacons in the aeronautical radionavigation service are permitted in the band 9300–9320 MHz on condition that harmful interference is not caused to the maritime radionavigation service. (WRC–07)

5.475A The use of the band 9300–9500 MHz by the Earth exploration-satellite service (active) and the space research service (active) is limited to systems requiring necessary bandwidth greater than 300 MHz that cannot be fully accommodated within the 9500–9800 MHz band. (WRC–07)

5.475B In the band 9300–9500 MHz, stations operating in the radiolocation service shall not cause harmful interference to, nor claim protection from, radars operating in the radionavigation service in conformity with the Radio Regulations. Ground-based radars used for meteorological purposes have priority over other radiolocation uses. (WRC–07)

5.476A In the band 9300–9800 MHz, stations in the Earth exploration-satellite service (active) and space research service

(active) shall not cause harmful interference to, nor claim protection from, stations of the radionavigation and radiolocation services. (WRC–07)

5.477 *Different category of service:* in Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lebanon, Liberia, Malaysia, Nigeria, Oman, Pakistan, Qatar, Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Trinidad and Tobago, and Yemen, the allocation of the band 9800–10000 MHz to the fixed service is on a primary basis (*see* No. 5.33). (WRC–07)

5.478 *Additional allocation:* in Azerbaijan, Mongolia, Kyrgyzstan, Romania, Turkmenistan and Ukraine, the band 9800–10000 MHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.478A The use of the band 9800–9900 MHz by the Earth exploration-satellite service (active) and the space research service (active) is limited to systems requiring necessary bandwidth greater than 500 MHz that cannot be fully accommodated within the 9300–9800 MHz band. (WRC–07)

5.478B In the band 9800–9900 MHz, stations in the Earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, nor claim protection from stations of the fixed service to which this band is allocated on a secondary basis. (WRC–07)

5.479 The band 9975–10025 MHz is also allocated to the meteorological-satellite service on a secondary basis for use by weather radars.

5.480 *Additional allocation:* in Argentina, Brazil, Chile, Costa Rica, Cuba, El Salvador, Ecuador, Guatemala, Honduras, Mexico, Paraguay, the Netherlands Antilles, Peru and Uruguay, the band 10–10.45 GHz is also allocated to the fixed and mobile services on a primary basis. In Venezuela, the band 10–10.45 GHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.481 *Additional allocation:* in Germany, Angola, Brazil, China, Costa Rica, Côte d'Ivoire, El Salvador, Ecuador, Spain, Guatemala, Hungary, Japan, Kenya, Morocco, Nigeria, Oman, Uzbekistan, Paraguay, Peru, the Dem. People's Rep. of Korea, Romania, Tanzania, Thailand and Uruguay, the band 10.45–10.5 GHz is also allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.482 In the band 10.6–10.68 GHz, the power delivered to the antenna of stations of the fixed and mobile, except aeronautical mobile, services shall not exceed −3 dBW. This limit may be exceeded, subject to agreement obtained under No. 9.21. However, in Algeria, Saudi Arabia, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Egypt, United Arab Emirates, Georgia, India, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Libyan Arab Jamahiriya, Kazakhstan, Kuwait, Lebanon, Morocco, Mauritania, Moldova, Nigeria, Oman, Uzbekistan, Pakistan, Philippines, Qatar, Syrian Arab Republic, Kyrgyzstan, Singapore, Tajikistan, Tunisia, Turkmenistan and Viet Nam, this restriction on the fixed and mobile, except aeronautical mobile, services is not applicable. (WRC–07) (FCC)

5.482A For sharing of the band 10.6–10.68 GHz between the Earth exploration-satellite (passive) service and the fixed and mobile, except aeronautical mobile, services, Resolution 751 (WRC–07) applies. (WRC–07)

5.483 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, China, Colombia, Korea (Rep. of), Costa Rica, Egypt, the United Arab Emirates, Georgia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kuwait, Lebanon, Mongolia, Qatar, Kyrgyzstan, the Dem. People's Rep. of Korea, Romania, Tajikistan, Turkmenistan and Yemen, the band 10.68–10.7 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985. (WRC–07)

5.484 In Region 1, the use of the band 10.7–11.7 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service.

5.484A The use of the bands 10.95–11.2 GHz (space-to-Earth), 11.45–11.7 GHz (space-to-Earth), 11.7–12.2 GHz (space-to-Earth) in Region 2, 12.2–12.75 GHz (space-to-Earth) in Region 3, 12.5–12.75 GHz (space-to-Earth) in Region 1, 13.75–14.5 GHz (Earth-to-space), 17.8–18.6 GHz (space-to-Earth), 19.7–20.2 GHz (space-to-Earth), 27.5–28.6 GHz (Earth-to-space), 29.5–30 GHz (Earth-to-space) by a non-geostationary-satellite system in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.485 In Region 2, in the band 11.7–12.2 GHz, transponders on space stations in the fixed-satellite service may be used additionally for transmissions in the broadcasting-satellite service, provided that such transmissions do not have a maximum e.i.r.p. greater than 53 dBW per television channel and do not cause greater interference or require more protection from interference than the coordinated fixed-satellite service frequency assignments. With respect to the space services, this band shall be used principally for the fixed-satellite service.

5.486 *Different category of service:* in Mexico and the United States, the allocation of the band 11.7–12.1 GHz to the fixed service is on a secondary basis (*see* No. 5.32).

5.487 In the band 11.7–12.5 GHz in Regions 1 and 3, the fixed, fixed-satellite, mobile, except aeronautical mobile, and broadcasting services, in accordance with their respective allocations, shall not cause harmful interference to, or claim protection from, broadcasting-satellite stations operating in accordance with the Regions 1 and 3 Plan in Appendix 30.

5.487A *Additional allocation:* in Region 1, the band 11.7–12.5 GHz, in Region 2, the band 12.2–12.7 GHz and, in Region 3, the band 11.7–12.2 GHz, are also allocated to the fixed-satellite service (space-to-Earth) on a primary basis, limited to non-geostationary systems and subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the broadcasting-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.488 The use of the band 11.7–12.2 GHz by geostationary-satellite networks in the fixed-satellite service in Region 2 is subject to application of the provisions of No. 9.14 for coordination with stations of terrestrial services in Regions 1, 2 and 3. For the use of the band 12.2–12.7 GHz by the broadcasting-satellite service in Region 2, *see* Appendix 30.

5.489 *Additional allocation:* in Peru, the band 12.1–12.2 GHz is also allocated to the fixed service on a primary basis.

5.490 In Region 2, in the band 12.2–12.7 GHz, existing and future terrestrial radiocommunication services shall not cause harmful interference to the space services operating in conformity with the broadcasting-satellite Plan for Region 2 contained in Appendix 30.

5.492 Assignments to stations of the broadcasting-satellite service which are in conformity with the appropriate regional Plan or included in the Regions 1 and 3 List in Appendix 30 may also be used for transmissions in the fixed-satellite service (space-to-Earth), provided that such transmissions do not cause more interference, or require more protection from interference, than the broadcasting-satellite service transmissions operating in conformity with the Plan or the List, as appropriate.

5.493 The broadcasting-satellite service in the band 12.5–12.75 GHz in Region 3 is limited to a power flux-density not exceeding -111 dB(W/(m^2 · 27 MHz)) for all conditions and for all methods of modulation at the edge of the service area.

5.494 *Additional allocation:* in Algeria, Angola, Saudi Arabia, Bahrain, Cameroon,

the Central African Rep., Congo (Rep. of the), Côte d'Ivoire, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Iraq, Israel, the Libyan Arab Jamahiriya, Jordan, Kuwait, Lebanon, Madagascar, Mali, Morocco, Mongolia, Nigeria, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, Somalia, Sudan, Chad, Togo and Yemen, the band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

5.495 *Additional allocation:* in Bosnia and Herzegovina, France, Greece, Liechtenstein, Monaco, Montenegro, Uganda, Romania, Serbia, Switzerland, Tanzania and Tunisia, the band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis. (WRC–07)

5.496 *Additional allocation:* in Austria, Azerbaijan, Kyrgyzstan and Turkmenistan, the band 12.5–12.75 GHz is also allocated to the fixed service and the mobile, except aeronautical mobile, service on a primary basis. However, stations in these services shall not cause harmful interference to fixed-satellite service earth stations of countries in Region 1 other than those listed in this footnote. Coordination of these earth stations is not required with stations of the fixed and mobile services of the countries listed in this footnote. The power flux-density limit at the Earth's surface given in Table 21–4 of Article 21, for the fixed-satellite service shall apply on the territory of the countries listed in this footnote.

5.497 The use of the band 13.25–13.4 GHz by the aeronautical radionavigation service is limited to Doppler navigation aids.

5.498A The Earth exploration-satellite (active) and space research (active) services operating in the band 13.25–13.4 GHz shall not cause harmful interference to, or constrain the use and development of, the aeronautical radionavigation service.

5.499 *Additional allocation:* in Bangladesh, India and Pakistan, the band 13.25–14 GHz is also allocated to the fixed service on a primary basis.

5.500 *Additional allocation:* in Algeria, Angola, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, Egypt, the United Arab Emirates, Gabon, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Madagascar, Malaysia, Mali, Malta, Morocco, Mauritania, Nigeria, Pakistan, Qatar, the Syrian Arab Republic, Singapore, Sudan, Chad and Tunisia, the band 13.4–14 GHz is also allocated to the fixed and mobile services on a primary basis.

5.501 *Additional allocation:* In Azerbaijan, Hungary, Japan, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 13.4–14 GHz is also allocated to the radionavigation service on a primary basis. (WRC–07)

5.501A The allocation of the band 13.4–13.75 GHz to the space research service on a primary basis is limited to active spaceborne sensors. Other uses of the band by the space research service are on a secondary basis.

5.501B In the band 13.4–13.75 GHz, the Earth exploration-satellite (active) and space research (active) services shall not cause harmful interference to, or constrain the use and development of, the radiolocation service.

5.502 In the band 13.75–14 GHz, an earth station of a geostationary fixed-satellite service network shall have a minimum antenna diameter of 1.2 m and an earth station of a non-geostationary fixed-satellite service system shall have a minimum antenna diameter of 4.5 m. In addition, the e.i.r.p., averaged over one second, radiated by a station in the radiolocation or radionavigation services shall not exceed 59 dBW for elevation angles above 2° and 65 dBW at lower angles. Before an administration brings into use an earth station in a geostationary-satellite network in the fixed-satellite service in this band with an antenna diameter smaller than 4.5 m, it shall ensure that the power flux-density produced by this earth station does not exceed:

— -115 dB(W/(m^2 · 10 MHz)) for more than 1% of the time produced at 36 m above sea level at the low water mark, as officially recognized by the coastal State;

— -115 dB(W/(m^2 · 10 MHz)) for more than 1% of the time produced 3 m above ground at the border of the territory of an administration deploying or planning to deploy land mobile radars in this band, unless prior agreement has been obtained.

For earth stations within the fixed-satellite service having an antenna diameter greater than or equal to 4.5 m, the e.i.r.p. of any emission should be at least 68 dBW and should not exceed 85 dBW.

5.503 In the band 13.75–14 GHz, geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 shall operate on an equal basis with stations in the fixed-satellite service; after that date, new geostationary space stations in the space research service will operate on a secondary basis. Until those geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 cease to operate in this band:

—In the band 13.77–13.78 GHz, the e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in geostationary-satellite orbit shall not exceed:

(i) $4.7D + 28$ dB (W/40 kHz), where D is the fixed-satellite service earth station antenna diameter (m) for antenna diameters equal to or greater than 1.2 m and less than 4.5 m;

(ii) $49.2 + 20 \log (D/4.5)$ dB(W/40 kHz), where D is the fixed-satellite service earth station antenna diameter (m) for antenna diameters equal to or greater than 4.5 m and less than 31.9 m;

(iii) 66.2 dB(W/40 kHz) for any fixed-satellite service earth station for antenna diameters (m) equal to or greater than 31.9 m;

(iv) 56.2 dB(W/4 kHz) for narrow-band (less than 40 kHz of necessary bandwidth) fixed-satellite service earth station emissions from any fixed-satellite service earth station having an antenna diameter of 4.5 m or greater;

— the e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in non-geostationary-satellite orbit shall not exceed 51 dBW in the 6 MHz band from 13.772 to 13.778 GHz.

Automatic power control may be used to increase the e.i.r.p. density in these frequency ranges to compensate for rain attenuation, to the extent that the power flux-density at the fixed-satellite service space station does not exceed the value resulting from use by an earth station of an e.i.r.p. meeting the above limits in clear-sky conditions.

5.504 The use of the band 14–14.3 GHz by the radionavigation service shall be such as to provide sufficient protection to space stations of the fixed-satellite service.

5.504A In the band 14–14.5 GHz, aircraft earth stations in the secondary aeronautical mobile-satellite service may also communicate with space stations in the fixed-satellite service. The provisions of Nos. 5.29, 5.30 and 5.31 apply.

5.504B Aircraft earth stations operating in the aeronautical mobile-satellite service in the band 14–14.5 GHz shall comply with the provisions of Annex 1, Part C of Recommendation ITU–R M.1643, with respect to any radio astronomy station performing observations in the 14.47–14.5 GHz band located on the territory of Spain, France, India, Italy, the United Kingdom and South Africa.

5.504C In the band 14–14.25 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Botswana, Côte d'Ivoire, Egypt, Guinea, India, Iran (Islamic Republic of), Kuwait, Lesotho, Nigeria, Oman, the Syrian Arab Republic and Tunisia by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU–R M.1643, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

5.505 *Additional allocation:* In Algeria, Angola, Saudi Arabia, Bahrain, Botswana, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Egypt, the United Arab Emirates, Gabon, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lesotho, Lebanon, Malaysia, Mali, Morocco, Mauritania, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Swaziland, Tanzania, Chad, Viet Nam and Yemen, the band 14–14.3 GHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.506 The band 14–14.5 GHz may be used, within the fixed-satellite service (Earth-to-space), for feeder links for the broadcasting-satellite service, subject to coordination with other networks in the fixed-satellite service. Such use of feeder links is reserved for countries outside Europe.

5.506A In the band 14–14.5 GHz, ship earth stations with an e.i.r.p. greater than 21

dBW shall operate under the same conditions as earth stations located on board vessels, as provided in Resolution 902 (WRC–03). This footnote shall not apply to ship earth stations for which the complete Appendix 4 information has been received by the Bureau prior to 5 July 2003.

5.506B Earth stations located on board vessels communicating with space stations in the fixed-satellite service may operate in the frequency band 14–14.5 GHz without the need for prior agreement from Cyprus, Greece and Malta, within the minimum distance given in Resolution 902 (WRC–03) from these countries.

5.508 *Additional allocation:* In Germany, Bosnia and Herzegovina, France, Italy, Libyan Arab Jamahiriya, The Former Yugoslav Rep. of Macedonia and the United Kingdom, the band 14.25–14.3 GHz is also allocated to the fixed service on a primary basis. (WRC–07)

5.508A In the band 14.25–14.3 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Botswana, China, Côte d'Ivoire, Egypt, France, Guinea, India, Iran (Islamic Republic of), Italy, Kuwait, Lesotho, Nigeria, Oman, the Syrian Arab Republic, the United Kingdom and Tunisia by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU–R M.1643, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

5.509A In the band 14.3–14.5 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Botswana, Cameroon, China, Côte d'Ivoire, Egypt, France, Gabon, Guinea, India, Iran (Islamic Republic of), Italy, Kuwait, Lesotho, Morocco, Nigeria, Oman, the Syrian Arab Republic, the United Kingdom, Sri Lanka, Tunisia and Viet Nam by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU–R M.1643, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

5.510 The use of the band 14.5–14.8 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. This use is reserved for countries outside Europe.

5.511 *Additional allocation:* In Saudi Arabia, Bahrain, Bosnia and Herzegovina, Cameroon, Egypt, the United Arab Emirates, Guinea, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Kuwait, Lebanon, Pakistan, Qatar, the Syrian Arab Republic and Somalia, the band 15.35–15.4 GHz is also allocated to the fixed and mobile services on a secondary basis. (WRC–07)

5.511A The band 15.43–15.63 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis. Use of the band 15.43–15.63 GHz by the fixed-satellite service (space-to-Earth and Earth-to-space) is limited to feeder links of non-geostationary systems in the mobile-satellite service, subject to coordination under No. 9.11A. The use of the frequency band 15.43–15.63 GHz by the fixed-satellite service (space-to-Earth) is limited to feeder links of non-geostationary systems in the mobile-satellite service for which advance publication information has been received by the Bureau prior to 2 June 2000. In the space-to-Earth direction, the minimum earth station elevation angle above and gain towards the local horizontal plane and the minimum coordination distances to protect an earth station from harmful interference shall be in accordance with Recommendation ITU–R S.1341. In order to protect the radio astronomy service in the band 15.35–15.4 GHz, the aggregate power flux-density radiated in the 15.35–15.4 GHz band by all the space stations within any feeder-link of a non-geostationary system in the mobile-satellite service (space-to-Earth) operating in the 15.43–15.63 GHz band shall not exceed the level of -156 dB(W/m^2) in a 50 MHz bandwidth, into any radio astronomy observatory site for more than 2% of the time.

5.511C Stations operating in the aeronautical radionavigation service shall limit the effective e.i.r.p. in accordance with Recommendation ITU–R S.1340. The minimum coordination distance required to protect the aeronautical radionavigation stations (No. 4.10 applies) from harmful interference from feeder-link earth stations and the maximum e.i.r.p. transmitted towards the local horizontal plane by a feeder-link earth station shall be in accordance with Recommendation ITU–R S. 1340.

5.511D Fixed-satellite service systems for which complete information for advance publication has been received by the Bureau by 21 November 1997 may operate in the bands 15.4–15.43 GHz and 15.63–15.7 GHz in the space-to-Earth direction and 15.63–15.65 GHz in the Earth-to-space direction. In the bands 15.4–15.43 GHz and 15.65–15.7 GHz, emissions from a non-geostationary space station shall not exceed the power flux-density limits at the Earth's surface of -146 dB(W/(m^2 · MHz)) for any angle of arrival. In the band 15.63–15.65 GHz, where an administration plans emissions from a non-geostationary space station that exceed -146 dB(W/(m^2 · MHz)) for any angle of arrival, it shall coordinate under No. 9.11A with the affected administrations. Stations in the fixed-satellite service operating in the band 15.63–15.65 GHz in the Earth-to-space direction shall not cause harmful interference to stations in the aeronautical radionavigation service (No. 4.10 applies).

5.512 *Additional allocation:* In Algeria, Angola, Saudi Arabia, Austria, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, Congo (Rep. of the), Costa Rica, Egypt, El Salvador, the United Arab Emirates, Eritrea, Finland, Guatemala, India, Indonesia, Iran (Islamic Republic of), the Libyan Arab Jamahiriya, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Montenegro, Mozambique, Nepal, Nicaragua, Oman, Pakistan, Qatar, Syrian Arab Republic, Serbia, Singapore, Somalia, Sudan, Swaziland, Tanzania, Chad, Togo and Yemen, the band 15.7–17.3 GHz is also allocated to the fixed and mobile services on a primary basis. (WRC–07)

5.513 *Additional allocation:* In Israel, the band 15.7–17.3 GHz is also allocated to the fixed and mobile services on a primary basis. These services shall not claim protection from or cause harmful interference to services operating in accordance with the Table in countries other than those included in No. 5.512.

5.513A Spaceborne active sensors operating in the band 17.2–17.3 GHz shall not cause harmful interference to, or constrain the development of, the radiolocation and other services allocated on a primary basis.

5.514 *Additional allocation:* In Algeria, Angola, Saudi Arabia, Bahrain, Bangladesh, Cameroon, Costa Rica, El Salvador, the United Arab Emirates, Guatemala, India, Iran (Islamic Republic of), Iraq, Israel, Italy, the Libyan Arab Jamahiriya, Japan, Jordan, Kuwait, Lithuania, Nepal, Nicaragua, Nigeria, Oman, Uzbekistan, Pakistan, Qatar, Kyrgyzstan and Sudan, the band 17.3–17.7 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits given in Nos. 21.3 and 21.5 shall apply. (WRC–07)

5.515 In the band 17.3–17.8 GHz, sharing between the fixed-satellite service (Earth-to-space) and the broadcasting-satellite service shall also be in accordance with the provisions of § 1 of Annex 4 of Appendix 30A.

5.516 The use of the band 17.3–18.1 GHz by geostationary-satellite systems in the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. The use of the band 17.3–17.8 GHz in Region 2 by systems in the fixed-satellite service (Earth-to-space) is limited to geostationary satellites. For the use of the band 17.3–17.8 GHz in Region 2 by feeder links for the broadcasting-satellite service in the band 12.2–12.7 GHz, *see* Article 11. The use of the bands 17.3–18.1 GHz (Earth-to-space) in Regions 1 and 3 and 17.8–18.1 GHz (Earth-to-space) in Region 2 by non-geostationary-satellite systems in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

5.516A In the band 17.3–17.7 GHz, earth stations of the fixed-satellite service (space-

to-Earth) in Region 1 shall not claim protection from the broadcasting-satellite service feeder-link earth stations operating under Appendix 30A, nor put any limitations or restrictions on the locations of the broadcasting-satellite service feeder-link earth stations anywhere within the service area of the feeder link.

5.516B The following bands are identified for use by high-density applications in the fixed-satellite service:

17.3–17.7 GHz (space-to-Earth) in Region 1,
18.3–19.3 GHz (space-to-Earth) in Region 2,
19.7–20.2 GHz (space-to-Earth) in all Regions,
39.5–40 GHz (space-to-Earth) in Region 1,
40–40.5 GHz (space-to-Earth) in all Regions,
40.5–42 GHz (space-to-Earth) in Region 2,
47.5–47.9 GHz (space-to-Earth) in Region 1,
48.2–48.54 GHz (space-to-Earth) in Region 1,
49.44–50.2 GHz (space-to-Earth) in Region 1, and
27.5–27.82 GHz (Earth-to-space) in Region 1,
28.35–28.45 GHz (Earth-to-space) in Region 2,
28.45–28.94 GHz (Earth-to-space) in all Regions,
28.94–29.1 GHz (Earth-to-space) in Regions 2 and 3,
29.25–29.46 GHz (Earth-to-space) in Region 2,
29.46–30 GHz (Earth-to-space) in all Regions,
48.2–50.2 GHz (Earth-to-space) in Region 2.

This identification does not preclude the use of these bands by other fixed-satellite service applications or by other services to which these bands are allocated on a co-primary basis and does not establish priority in these Radio Regulations among users of the bands. Administrations should take this into account when considering regulatory provisions in relation to these bands. See Resolution 143 (Rev.WRC–07). (FCC)

5.517 In Region 2, use of the fixed-satellite (space-to-Earth) service in the band 17.7–17.8 GHz shall not cause harmful interference to nor claim protection from assignments in the broadcasting-satellite service operating in conformity with the Radio Regulations. (WRC–07)

5.519 *Additional allocation:* The bands 18–18.3 GHz in Region 2 and 18.1–18.4 GHz in Regions 1 and 3 are also allocated to the meteorological-satellite service (space-to-Earth) on a primary basis. Their use is limited to geostationary satellites. (WRC–07)

5.520 The use of the band 18.1–18.4 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links of geostationary-satellite systems in the broadcasting-satellite service.

5.521 *Alternative allocation:* In Germany, Denmark, the United Arab Emirates and Greece, the band 18.1–18.4 GHz is allocated to the fixed, fixed-satellite (space-to-Earth) and mobile services on a primary basis (see No. 5.33). The provisions of No. 5.519 also apply.

5.522A The emissions of the fixed service and the fixed-satellite service in the band 18.6–18.8 GHz are limited to the values given in Nos. 21.5A and 21.16.2, respectively.

5.522B The use of the band 18.6–18.8 GHz by the fixed-satellite service is limited to geostationary systems and systems with an orbit of apogee greater than 20000 km.

5.522C In the band 18.6–18.8 GHz, in Algeria, Saudi Arabia, Bahrain, Egypt, the United Arab Emirates, the Libyan Arab Jamahiriya, Jordan, Lebanon, Morocco, Oman, Qatar, the Syrian Arab Republic, Tunisia and Yemen, fixed-service systems in operation at the date of entry into force of the Final Acts of WRC–2000 are not subject to the limits of No. 21.5A.

5.523A The use of the bands 18.8–19.3 GHz (space-to-Earth) and 28.6–29.1 GHz (Earth-to-space) by geostationary and non-geostationary fixed-satellite service networks is subject to the application of the provisions of No. 9.11A and No. 22.2 does not apply. Administrations having geostationary-satellite networks under coordination prior to 18 November 1995 shall cooperate to the maximum extent possible to coordinate pursuant to No. 9.11A with non-geostationary-satellite networks for which notification information has been received by the Bureau prior to that date, with a view to reaching results acceptable to all the parties concerned. Non-geostationary-satellite networks shall not cause unacceptable interference to geostationary fixed-satellite service networks for which complete Appendix 4 notification information is considered as having been received by the Bureau prior to 18 November 1995.

5.523B The use of the band 19.3–19.6 GHz (Earth-to-space) by the fixed-satellite service is limited to feeder links for non-geostationary-satellite systems in the mobile-satellite service. Such use is subject to the application of the provisions of No. 9.11A, and No. 22.2 does not apply.

5.523C No. 22.2 shall continue to apply in the bands 19.3–19.6 GHz and 29.1–29.4 GHz, between feeder links of non-geostationary mobile-satellite service networks and those fixed-satellite service networks for which complete Appendix 4 coordination information, or notification information, is considered as having been received by the Bureau prior to 18 November 1995.

5.523D The use of the band 19.3–19.7 GHz (space-to-Earth) by geostationary fixed-satellite service systems and by feeder links for non-geostationary-satellite systems in the mobile-satellite service is subject to the application of the provisions of No. 9.11A, but not subject to the provisions of No. 22.2. The use of this band for other non-geostationary fixed-satellite service systems, or for the cases indicated in Nos. 5.523C and 5.523E, is not subject to the provisions of No. 9.11A and shall continue to be subject to Articles 9 (except No. 9.11A) and 11 procedures, and to the provisions of No. 22.2.

5.523E No. 22.2 shall continue to apply in the bands 19.6–19.7 GHz and 29.4–29.5 GHz, between feeder links of non-geostationary mobile-satellite service networks and those fixed-satellite service networks for which complete Appendix 4 coordination information, or notification information, is considered as having been received by the Bureau by 21 November 1997.

5.524 *Additional allocation:* In Afghanistan, Algeria, Angola, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Costa Rica, Egypt, the United Arab Emirates, Gabon, Guatemala, Guinea, India, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Tanzania, Chad, Togo and Tunisia, the band 19.7–21.2 GHz is also allocated to the fixed and mobile services on a primary basis. This additional use shall not impose any limitation on the power flux-density of space stations in the fixed-satellite service in the band 19.7–21.2 GHz and of space stations in the mobile-satellite service in the band 19.7–20.2 GHz where the allocation to the mobile-satellite service is on a primary basis in the latter band. (WRC–07)

5.525 In order to facilitate interregional coordination between networks in the mobile-satellite and fixed-satellite services, carriers in the mobile-satellite service that are most susceptible to interference shall, to the extent practicable, be located in the higher parts of the bands 19.7–20.2 GHz and 29.5–30 GHz.

5.526 In the bands 19.7–20.2 GHz and 29.5–30 GHz in Region 2, and in the bands 20.1–20.2 GHz and 29.9–30 GHz in Regions 1 and 3, networks which are both in the fixed-satellite service and in the mobile-satellite service may include links between earth stations at specified or unspecified points or while in motion, through one or more satellites for point-to-point and point-to-multipoint communications.

5.527 In the bands 19.7–20.2 GHz and 29.5–30 GHz, the provisions of No. 4.10 do not apply with respect to the mobile-satellite service.

5.528 The allocation to the mobile-satellite service is intended for use by networks which use narrow spot-beam antennas and other advanced technology at the space stations. Administrations operating systems in the mobile-satellite service in the band 19.7–20.1 GHz in Region 2 and in the band 20.1–20.2 GHz shall take all practicable steps to ensure the continued availability of these bands for administrations operating fixed and mobile systems in accordance with the provisions of No. 5.524.

5.529 The use of the bands 19.7–20.1 GHz and 29.5–29.9 GHz by the mobile-satellite service in Region 2 is limited to satellite networks which are both in the fixed-satellite service and in the mobile-satellite service as described in No. 5.526.

5.530 In Regions 1 and 3, the use of the band 21.4–22 GHz by the broadcasting-satellite service is subject to the provisions of Resolution 525 (Rev.WRC–07). (WRC–07)

5.531 *Additional allocation:* in Japan, the band 21.4–22 GHz is also allocated to the broadcasting service on a primary basis.

5.532 The use of the band 22.21–22.5 GHz by the Earth exploration-satellite (passive) and space research (passive) services shall not impose constraints upon the fixed and mobile, except aeronautical mobile, services.

5.533 The inter-satellite service shall not claim protection from harmful interference from airport surface detection equipment stations of the radionavigation service.

5.535 In the band 24.75–25.25 GHz, feeder links to stations of the broadcasting-satellite service shall have priority over other uses in the fixed-satellite service (Earth-to-space). Such other uses shall protect and shall not claim protection from existing and future operating feeder-link networks to such broadcasting satellite stations.

5.535A The use of the band 29.1–29.5 GHz (Earth-to-space) by the fixed-satellite service is limited to geostationary-satellite systems and feeder links to non-geostationary-satellite systems in the mobile-satellite service. Such use is subject to the application of the provisions of No. 9.11A, but not subject to the provisions of No. 22.2, except as indicated in Nos. 5.523C and 5.523E where such use is not subject to the provisions of No. 9.11A and shall continue to be subject to Articles 9 (except No. 9.11A) and 11 procedures, and to the provisions of No. 22.2.

5.536 Use of the 25.25–27.5 GHz band by the inter-satellite service is limited to space research and Earth exploration-satellite applications, and also transmissions of data originating from industrial and medical activities in space.

5.536A Administrations operating earth stations in the Earth exploration-satellite service or the space research service shall not claim protection from stations in the fixed and mobile services operated by other administrations. In addition, earth stations in the Earth exploration-satellite service or in the space research service should be operated taking into account Recommendations ITU–R SA.1278 and ITU–R SA.1625, respectively.

5.536B In Germany, Saudi Arabia, Austria, Belgium, Brazil, Bulgaria, China, Korea (Rep. of), Denmark, Egypt, United Arab Emirates, Spain, Estonia, Finland, France, Hungary, India, Iran (Islamic Republic of), Ireland, Israel, Italy, the Libyan Arab Jamahiriya, Jordan, Kenya, Kuwait, Lebanon, Liechtenstein, Lithuania, Moldova, Norway, Oman, Uganda, Pakistan, the Philippines, Poland, Portugal, the Syrian Arab Republic, Dem. People's Rep. of Korea, Slovakia, the Czech Rep., Romania, the United Kingdom, Singapore, Sweden, Switzerland, Tanzania, Turkey, Viet Nam and Zimbabwe, earth stations operating in the Earth exploration-satellite service in the band 25.5–27 GHz shall not claim protection from, or constrain the use and deployment of, stations of the fixed and mobile services. (WRC–07)

5.536C In Algeria, Saudi Arabia, Bahrain, Botswana, Brazil, Cameroon, Comoros, Cuba, Djibouti, Egypt, United Arab Emirates, Estonia, Finland, Iran (Islamic Republic of), Israel, Jordan, Kenya, Kuwait, Lithuania, Malaysia, Morocco, Nigeria, Oman, Qatar, Syrian Arab Republic, Somalia, Sudan, Tanzania, Tunisia, Uruguay, Zambia and Zimbabwe, earth stations operating in the space research service in the band 25.5–27 GHz shall not claim protection from, or constrain the use and deployment of, stations of the fixed and mobile services.

5.537 Space services using non-geostationary satellites operating in the inter-satellite service in the band 27–27.5 GHz are exempt from the provisions of No. 22.2.

5.537A In Bhutan, Cameroon, Korea (Rep. of), the Russian Federation, India, Indonesia, Iran (Islamic Republic of), Japan, Kazakhstan, Lesotho, Malaysia, Maldives, Mongolia, Myanmar, Uzbekistan, Pakistan, the Philippines, Kyrgyzstan, the Dem. People's Rep. of Korea, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the band 27.9–28.2 GHz may also be used by high altitude platform stations (HAPS) within the territory of these countries. Such use of 300 MHz of the fixed-service allocation by HAPS in the above countries is further limited to operation in the HAPS-to-ground direction and shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems or other co-primary services. Furthermore, the development of these other services shall not be constrained by HAPS. See Resolution 145 (Rev.WRC–07). (WRC–07)

5.538 *Additional allocation:* the bands 27.500–27.501 GHz and 29.999–30.000 GHz are also allocated to the fixed-satellite service (space-to-Earth) on a primary basis for the beacon transmissions intended for up-link power control. Such space-to-Earth transmissions shall not exceed an equivalent isotropically radiated power (e.i.r.p.) of + 10 dBW in the direction of adjacent satellites on the geostationary-satellite orbit. (WRC–07)

5.539 The band 27.5–30 GHz may be used by the fixed-satellite service (Earth-to-space) for the provision of feeder links for the broadcasting-satellite service.

5.540 *Additional allocation:* the band 27.501–29.999 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a secondary basis for beacon transmissions intended for up-link power control.

5.541 In the band 28.5–30 GHz, the earth exploration-satellite service is limited to the transfer of data between stations and not to the primary collection of information by means of active or passive sensors.

5.541A Feeder links of non-geostationary networks in the mobile-satellite service and geostationary networks in the fixed-satellite service operating in the band 29.1–29.5 GHz (Earth-to-space) shall employ uplink adaptive power control or other methods of fade compensation, such that the earth station transmissions shall be conducted at the power level required to meet the desired link performance while reducing the level of mutual interference between both networks. These methods shall apply to networks for which Appendix 4 coordination information is considered as having been received by the Bureau after 17 May 1996 and until they are changed by a future competent world radiocommunication conference. Administrations submitting Appendix 4 information for coordination before this date are encouraged to utilize these techniques to the extent practicable.

5.542 *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guinea, India, Iran (Islamic Republic of), Iraq, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Pakistan, Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Somalia, Sudan, Sri Lanka and Chad, the band 29.5–31 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits specified in Nos. 21.3 and 21.5 shall apply. (WRC–07)

5.543 The band 29.95–30 GHz may be used for space-to-space links in the Earth exploration-satellite service for telemetry, tracking, and control purposes, on a secondary basis.

5.543A In Bhutan, Cameroon, Korea (Rep. of), the Russian Federation, India, Indonesia, Iran (Islamic Republic of), Japan, Kazakhstan, Lesotho, Malaysia, Maldives, Mongolia, Myanmar, Uzbekistan, Pakistan, the Philippines, Kyrgyzstan, the Dem. People's Rep. of Korea, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the band 31–31.3 GHz may also be used by systems using high altitude platform stations (HAPS) in the ground-to-HAPS direction. The use of the band 31–31.3 GHz by systems using HAPS is limited to the territory of the countries listed above and shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems, systems in the mobile service and systems operated under No. 5.545. Furthermore, the development of these services shall not be constrained by HAPS. Systems using HAPS in the band 31–31.3 GHz shall not cause harmful interference to the radio astronomy service having a primary allocation in the band 31.3–31.8 GHz, taking into account the protection criterion as given in Recommendation ITU–R RA.769. In order to ensure the protection of satellite passive services, the level of unwanted power density into a HAPS ground station antenna in the band 31.3–31.8 GHz shall be limited to −106 dB(W/MHz) under clear-sky conditions, and may be increased up to −100 dB(W/MHz) under rainy conditions to mitigate fading due to rain, provided the effective impact on the passive satellite does not exceed the impact under clear-sky conditions. *See* Resolution 145 (Rev.WRC–07). (WRC–07)

5.544 In the band 31–31.3 GHz the power flux-density limits specified in Article 21, Table 21–4 shall apply to the space research service.

5.545 *Different category of service:* in Armenia, Georgia, Mongolia, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 31–31.3 GHz to the space research service is on a primary basis (see No. 5.33). (WRC–07)

5.546 *Different category of service:* in Saudi Arabia, Armenia, Azerbaijan, Belarus, Egypt, the United Arab Emirates, Spain, Estonia, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Israel, Jordan, Lebanon, Moldova, Mongolia, Uzbekistan, Poland, the Syrian Arab Republic, Kyrgyzstan, Romania, the United Kingdom, South Africa, Tajikistan, Turkmenistan and Turkey, the allocation of the band 31.5–31.8 GHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (*see* No. 5.33). (WRC–07)

5.547 The bands 31.8–33.4 GHz, 37–40 GHz, 40.5–43.5 GHz, 51.4–52.6 GHz, 55.78–59 GHz and 64–66 GHz are available for high-density applications in the fixed service (*see* Resolution 75 (WRC–2000)). Administrations should take this into account when considering regulatory provisions in relation

to these bands. Because of the potential deployment of high-density applications in the fixed-satellite service in the bands 39.5–40 GHz and 40.5–42 GHz (*see* No. 5.516B), administrations should further take into account potential constraints to high-density applications in the fixed service, as appropriate. (WRC–07)

5.547A Administrations should take practical measures to minimize the potential interference between stations in the fixed service and airborne stations in the radionavigation service in the 31.8–33.4 GHz band, taking into account the operational needs of the airborne radar systems.

5.547B *Alternative allocation:* in the United States, the band 31.8–32 GHz is allocated to the radionavigation and space research (deep space) (space-to-Earth) services on a primary basis.

5.547C *Alternative allocation:* in the United States, the band 32–32.3 GHz is allocated to the radionavigation and space research (deep space) (space-to-Earth) services on a primary basis.

5.547D *Alternative allocation:* in the United States, the band 32.3–33 GHz is allocated to the inter-satellite and radionavigation services on a primary basis.

5.547E *Alternative allocation:* in the United States, the band 33–33.4 GHz is allocated to the radionavigation service on a primary basis.

5.548 In designing systems for the inter-satellite service in the band 32.3–33 GHz, for the radionavigation service in the band 32–33 GHz, and for the space research service (deep space) in the band 31.8–32.3 GHz, administrations shall take all necessary measures to prevent harmful interference between these services, bearing in mind the safety aspects of the radionavigation service (*see* Recommendation 707).

5.549 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Egypt, the United Arab Emirates, Gabon, Indonesia, Iran (Islamic Republic of), Iraq, Israel, the Libyan Arab Jamahiriya, Jordan, Kuwait, Lebanon, Malaysia, Mali, Malta, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, Singapore, Somalia, Sudan, Sri Lanka, Togo, Tunisia and Yemen, the band 33.4–36 GHz is also allocated to the fixed and mobile services on a primary basis.

5.549A In the band 35.5–36.0 GHz, the mean power flux-density at the Earth's surface, generated by any spaceborne sensor in the Earth exploration-satellite service (active) or space research service (active), for any angle greater than 0.8° from the beam centre shall not exceed −73.3 dB(W/m²) in this band.

5.550 *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Mongolia, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 34.7–35.2 GHz to the space research service is on a primary basis (*see* No. 5.33). (WRC–07)

5.550A For sharing of the band 36–37 GHz between the Earth exploration-satellite (passive) service and the fixed and mobile services, Resolution 752 (WRC–07) shall apply. (WRC–07)

5.551F *Different category of service:* in Japan, the allocation of the band 41.5–42.5 GHz to the mobile service is on a primary basis (*see* No. 5.33).

5.551H The equivalent power flux-density (epfd) produced in the band 42.5–43.5 GHz by all space stations in any non-geostationary-satellite system in the fixed-satellite service (space-to-Earth), or in the broadcasting-satellite service operating in the 42–42.5 GHz band, shall not exceed the following values at the site of any radio astronomy station for more than 2% of the time:

− 230 dB(W/m²) in 1 GHz and − 246 dB(W/m²) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a single-dish telescope; and

− 209 dB(W/m²) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a very long baseline interferometry station.

These epfd values shall be evaluated using the methodology given in Recommendation ITU–R S.1586–1 and the reference antenna pattern and the maximum gain of an antenna in the radio astronomy service given in Recommendation ITU–R RA.1631 and shall apply over the whole sky and for elevation angles higher than the minimum operating angle θ_{min} of the radiotelescope (for which a default value of 5° should be adopted in the absence of notified information).

These values shall apply at any radio astronomy station that either:

—Was in operation prior to 5 July 2003 and has been notified to the Bureau before 4 January 2004; or

—Was notified before the date of receipt of the complete Appendix 4 information for coordination or notification, as appropriate, for the space station to which the limits apply.

Other radio astronomy stations notified after these dates may seek an agreement with administrations that have authorized the space stations. In Region 2, Resolution 743 (WRC–03) shall apply. The limits in this footnote may be exceeded at the site of a radio astronomy station of any country whose administration so agreed. (WRC–07)

5.551I The power flux-density in the band 42.5–43.5 GHz produced by any geostationary space station in the fixed-satellite service (space-to-Earth), or the broadcasting-satellite service operating in the 42–42.5 GHz band, shall not exceed the following values at the site of any radio astronomy station:

− 137 dB(W/m²) in 1 GHz and − 153 dB(W/m²) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a single-dish telescope; and

− 116 dB(W/m²) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a very long baseline interferometry station.

These values shall apply at the site of any radio astronomy station that either:

—Was in operation prior to 5 July 2003 and has been notified to the Bureau before 4 January 2004; or

—Was notified before the date of receipt of the complete Appendix 4 information for coordination or notification, as appropriate, for the space station to which the limits apply.

Other radio astronomy stations notified after these dates may seek an agreement with administrations that have authorized the space stations. In Region 2, Resolution 743 (WRC–03) shall apply. The limits in this footnote may be exceeded at the site of a radio astronomy station of any country whose administration so agreed.

5.552 The allocation of the spectrum for the fixed-satellite service in the bands 42.5–43.5 GHz and 47.2–50.2 GHz for Earth-to-space transmission is greater than that in the band 37.5–39.5 GHz for space-to-Earth transmission in order to accommodate feeder links to broadcasting satellites. Administrations are urged to take all practicable steps to reserve the band 47.2–49.2 GHz for feeder links for the broadcasting-satellite service operating in the band 40.5–42.5 GHz.

5.552A The allocation to the fixed service in the bands 47.2–47.5 GHz and 47.9–48.2 GHz is designated for use by high altitude platform stations. The use of the bands 47.2–47.5 GHz and 47.9–48.2 GHz is subject to the provisions of Resolution 122 (Rev.WRC–07). (WRC–07)

5.553 In the bands 43.5–47 GHz and 66–71 GHz, stations in the land mobile service may be operated subject to not causing harmful interference to the space radiocommunication services to which these bands are allocated (*see* No. 5.43).

5.554 In the bands 43.5–47 GHz, 66–71 GHz, 95–100 GHz, 123–130 GHz, 191.8–200 GHz and 252–265 GHz, satellite links connecting land stations at specified fixed points are also authorized when used in conjunction with the mobile-satellite service or the radionavigation-satellite service.

5.554A The use of the bands 47.5–47.9 GHz, 48.2–48.54 GHz and 49.44–50.2 GHz by the fixed-satellite service (space-to-Earth) is limited to geostationary satellites.

5.555 *Additional allocation:* the band 48.94–49.04 GHz is also allocated to the radio astronomy service on a primary basis.

5.555B The power flux-density in the band 48.94–49.04 GHz produced by any geostationary space station in the fixed-satellite service (space-to-Earth) operating in the bands 48.2–48.54 GHz and 49.44–50.2 GHz shall not exceed − 151.8 dB(W/m²) in any 500 kHz band at the site of any radio astronomy station.

5.556 In the bands 51.4–54.25 GHz, 58.2–59 GHz and 64–65 GHz, radio astronomy observations may be carried out under national arrangements.

5.556A Use of the bands 54.25–56.9 GHz, 57–58.2 GHz and 59–59.3 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density at all altitudes from 0 km to 1000 km above the Earth's surface produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, shall not exceed − 147 dB(W/(m² · 100 MHz)) for all angles of arrival.

5.556B *Additional allocation:* in Japan, the band 54.25–55.78 GHz is also allocated

to the mobile service on a primary basis for low-density use.

5.557 *Additional allocation:* in Japan, the band 55.78–58.2 GHz is also allocated to the radiolocation service on a primary basis.

5.557A In the band 55.78–56.26 GHz, in order to protect stations in the Earth exploration-satellite service (passive), the maximum power density delivered by a transmitter to the antenna of a fixed service station is limited to −26 dB(W/MHz).

5.558 In the bands 55.78–58.2 GHz, 59–64 GHz, 66–71 GHz, 122.25–123 GHz, 130–134 GHz, 167–174.8 GHz and 191.8–200 GHz, stations in the aeronautical mobile service may be operated subject to not causing harmful interference to the inter-satellite service (*see* No. 5.43).

5.558A Use of the band 56.9–57 GHz by inter-satellite systems is limited to links between satellites in geostationary-satellite orbit and to transmissions from non-geostationary satellites in high-Earth orbit to those in low-Earth orbit. For links between satellites in the geostationary-satellite orbit, the single entry power flux-density at all altitudes from 0 km to 1000 km above the Earth's surface, for all conditions and for all methods of modulation, shall not exceed −147 dB(W/(m^2 · 100 MHz)) for all angles of arrival.

5.559 In the band 59–64 GHz, airborne radars in the radiolocation service may be operated subject to not causing harmful interference to the inter-satellite service (*see* No. 5.43).

5.560 In the band 78–79 GHz radars located on space stations may be operated on a primary basis in the Earth exploration-satellite service and in the space research service.

5.561 In the band 74–76 GHz, stations in the fixed, mobile and broadcasting services shall not cause harmful interference to stations of the fixed-satellite service or stations of the broadcasting-satellite service operating in accordance with the decisions of the appropriate frequency assignment planning conference for the broadcasting-satellite service.

5.561A The 81–81.5 GHz band is also allocated to the amateur and amateur-satellite services on a secondary basis.

5.561B In Japan, use of the band 84–86 GHz, by the fixed-satellite service (Earth-to-space) is limited to feeder links in the broadcasting-satellite service using the geostationary-satellite orbit.

5.562 The use of the band 94–94.1 GHz by the Earth exploration-satellite (active) and space research (active) services is limited to spaceborne cloud radars.

5.562A In the bands 94–94.1 GHz and 130–134 GHz, transmissions from space stations of the Earth exploration-satellite service (active) that are directed into the main beam of a radio astronomy antenna have the potential to damage some radio astronomy receivers. Space agencies operating the transmitters and the radio astronomy stations concerned should mutually plan their operations so as to avoid such occurrences to the maximum extent possible.

5.562B In the bands 105–109.5 GHz, 111.8–114.25 GHz, 155.5–158.5 GHz and 217–226 GHz, the use of this allocation is limited to space-based radio astronomy only.

5.562C Use of the band 116–122.25 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, at all altitudes from 0 km to 1000 km above the Earth's surface and in the vicinity of all geostationary orbital positions occupied by passive sensors, shall not exceed −148 dB(W/(m^2 · MHz)) for all angles of arrival.

5.562D *Additional allocation:* In Korea (Rep. of), the bands 128–130 GHz, 171–171.6 GHz, 172.2–172.8 GHz and 173.3–174 GHz are also allocated to the radio astronomy service on a primary basis until 2015.

5.562E The allocation to the Earth exploration-satellite service (active) is limited to the band 133.5–134 GHz.

5.562F In the band 155.5–158.5 GHz, the allocation to the Earth exploration-satellite (passive) and space research (passive) services shall terminate on 1 January 2018.

5.562G The date of entry into force of the allocation to the fixed and mobile services in the band 155.5–158.5 GHz shall be 1 January 2018.

5.562H Use of the bands 174.8–182 GHz and 185–190 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, at all altitudes from 0 to 1000 km above the Earth's surface and in the vicinity of all geostationary orbital positions occupied by passive sensors, shall not exceed −144 dB(W/(m^2 · MHz)) for all angles of arrival.

5.563A In the bands 200–209 GHz, 235–238 GHz, 250–252 GHz and 265–275 GHz, ground-based passive atmospheric sensing is carried out to monitor atmospheric constituents.

5.563B The band 237.9–238 GHz is also allocated to the Earth exploration-satellite service (active) and the space research service (active) for spaceborne cloud radars only.

5.565 The frequency band 275–1000 GHz may be used by administrations for experimentation with, and development of, various active and passive services. In this band a need has been identified for the following spectral line measurements for passive services:

—Radio astronomy service: 275–323 GHz, 327–371 GHz, 388–424 GHz, 426–442 GHz, 453–510 GHz, 623–711 GHz, 795–909 GHz and 926–945 GHz;

—Earth exploration-satellite service (passive) and space research service (passive): 275–277 GHz, 294–306 GHz, 316–334 GHz, 342–349 GHz, 363–365 GHz, 371–389 GHz, 416–434 GHz, 442–444 GHz, 496–506 GHz, 546–568 GHz, 624–629 GHz, 634–654 GHz, 659–661 GHz, 684–692 GHz, 730–732 GHz, 851–853 GHz and 951–956 GHz.

Future research in this largely unexplored spectral region may yield additional spectral lines and continuum bands of interest to the passive services. Administrations are urged to take all practicable steps to protect these passive services from harmful interference until the date when the allocation Table is established in the above-mentioned frequency band.

United States (US) Footnotes

* * * * *

US2 In the band 9–490 kHz, electric utilities operate Power Line Carrier (PLC) systems on power transmission lines for communications important to the reliability and security of electric service to the public. These PLC systems operate under the provisions of 47 CFR part 15, or Chapter 8 of the *NTIA Manual,* on an unprotected and non-interference basis with respect to authorized radio users. Notification of intent to place new or revised radio frequency assignments or PLC frequency uses in the band 9–490 kHz is to be made in accordance with the Rules and Regulations of the FCC and NTIA, and users are urged to minimize potential interference to the extent practicable. This footnote does not provide any allocation status to PLC radio frequency uses.

* * * * *

US22 The following provisions shall apply to non-Federal use of 68 carrier frequencies in the range 2–8 MHz, which are not coordinated with NTIA:

(a) The frequencies authorized pursuant to 47 CFR 90.264 (Disaster Communications) and 47 CFR 90.266 (Long Distance Communications) are listed in columns 1–2 and columns 3–5, respectively. All stations are restricted to emission designator 2K80J3E, upper sideband transmissions, a maximum transmitter output power of 1 kW PEP, and to the class of station(s) listed in the column heading (*i.e.,* fixed (FX) for all frequencies; base and mobile (FB and ML) for the frequencies in column 1 and 3; itinerant FX for the frequencies in columns 4–5).

(b) *Use, Geographic, and Time Restrictions.* Letter(s) to the right of a frequency indicate that the frequency is available only for the following purpose(s):

—A or I: *A*lternate channel or *I*nterstate coordination.

—C, E, M, or W: For stations located in the *C*onterminous U.S., *E*ast of 108° West Longitude (WL), West of the *M*ississippi River, or *W*est of 90° WL.

—D or N: From two hours after local sunrise until two hours before local sunset (*i.e., D*ay only operations) or from two hours prior to local sunset until two hours after local sunrise (*i.e., N*ight only operations).

PREFERRED CARRIER FREQUENCIES (KHZ)

Disaster communications		Long distance communications		
FX, FB, ML	FX	FX, FB, ML	FX (including itinerant)	
2326 ... I	5135 ... A	2289	5046.6 ... E	7480.1
2411	5140 ... A, I	2292	5052.6 ... E	7483.1
2414	5192 ... I	2395	5055.6 ... E	7486.1 ... E
2419	5195 ... I	2398	5061.6 ... W	7549.1 ... D
2422	7477 ... A	3170	5067.6	7552.1
2439	7480 ... A	4538.6 ... N	5074.6 ... E	7555.1 ... W
2463	7802 ... D	4548.6 ... N	5099.1	7558.1 ... W
2466	7805 ... I	4575	5102.1	7559.1 ... W
2471	7932	4610.5	5313.6	7562.1 ... W
2474	7935 ... C, D	4613.5		7697.1
2487		4634.5	6800.1 ... N	
2511		4637.5	6803.1	
2535		4647	6806.1 ... W	
2569			6855.1 ... N, M	
2587			6858.1 ... N	
2801			6861.1 ... W	
2804 ... A			6885.1 ... N	
2812			6888.1 ... N	

Note: To determine the assigned frequency, add 1.4 kHz to the carrier frequency. Other emission designators may be authorized within the 2.8 kHz maximum necessary bandwidth pursuant to 47 CFR 90.264 and 90.266.

* * * * *

US37 In bands 1390–1400 and 1427–1432 MHz, Federal operations (except for devices authorized by the FCC for the Wireless Medical Telemetry Service) are on a non-interference basis to non-Federal operations and shall not constrain implementation of non-Federal operations.

* * * * *

US73 The frequencies 150.775, 150.79, 152.0075, and 163.25 MHz, and the bands 462.94–463.19675 and 467.94–468.19675 MHz shall be authorized for the purpose of delivering or rendering medical services to individuals (medical radiocommunication systems), and shall be authorized on a primary basis for Federal and non-Federal use. The frequency 152.0075 MHz may also be used for the purpose of conducting public safety radio communications that include, but are not limited to, the delivering or rendering of medical services to individuals.

(a) The use of the frequencies 150.775 and 150.79 MHz is restricted to mobile stations operating with a maximum e.r.p. of 100 watts. Airborne operations are prohibited.

(b) The use of the frequencies 152.0075 and 163.25 MHz is restricted to base stations that are authorized only for one-way paging communications to mobile receivers. Transmissions for the purpose of activating or controlling remote objects on these frequencies shall not be authorized.

(c) Non-Federal licensees in the Public Safety Radio Pool holding a valid authorization on May 27, 2005, to operate on the frequencies 150.7825 and 150.7975 MHz may, upon proper renewal application, continue to be authorized for such operation; provided that harmful interference is not caused to present or future Federal stations in the band 150.05–150.8 MHz and, should harmful interference result, that the interfering non-Federal operation shall immediately terminate.

US74 In the bands 25.55–25.67, 73.0–74.6, 406.1–410.0, 608–614, 1400–1427 (see US368), 1660.5–1670.0, 2690–2700, and 4990–5000 MHz, and in the bands 10.68–10.7, 15.35–15.4, 23.6–24.0, 31.3–31.5, 86–92, 100–102, 109.5–111.8, 114.25–116, 148.5–151.5, 164–167, 200–209, and 250–252 GHz, the radio astronomy service shall be protected from unwanted emissions only to the extent that such radiation exceeds the level which would be present if the offending station were operating in compliance with the technical standards or criteria applicable to the service in which it operates. Radio astronomy observations in these bands are performed at the locations listed in US385.

* * * * *

US117 In the band 406.1–410 MHz, the following provisions shall apply:

(a) Stations in the fixed and mobile services are limited to a transmitter output power of 125 watts, and new authorizations for stations, other than mobile stations, are subject to prior coordination by the applicant in the following areas:

(1) Within Puerto Rico and the U.S. Virgin Islands, contact Spectrum Manager, Arecibo Observatory, HC3 Box 53995, Arecibo, PR 00612. Phone: 787–878–2612, Fax: 787–878–1861, e-mail: *prcz@naic.edu.*

(2) Within 350 km of the Very Large Array (34°04′44″ N, 107°37′ 06″ W), contact Spectrum Manager, National Radio Astronomy Observatory, P.O. Box O, 1003 Lopezville Road, Socorro, NM 87801. Phone: 505–835–7000, Fax: 505–835–7027, e-mail: *nrao-rfi@nrao.edu.*

(3) Within 10 km of the Table Mountain Observatory (40°07′50″ N, 105°14′40″ W) and for operations only within the sub-band 407–409 MHz, contact Radio Frequency Manager, Department of Commerce, 325 Broadway, Boulder, CO 80305. Phone: 303–497–4619, Fax: 303–497–6982, e-mail: *frequencymanager@its.bldrdoc.gov.*

(b) Non-Federal use is limited to the radio astronomy service and as provided by US13.

US136 The following provisions shall apply in eight HF bands that are allocated to the broadcasting service (HFBC) on a primary basis in all Regions.

(a) In Alaska, the assigned frequency band 7368.48–7371.32 kHz is allocated exclusively to the fixed service (FS) on a primary basis for non-Federal use in accordance with 47 CFR 80.387.

(b) On the condition that harmful interference is not caused to the broadcasting service (NIB operations), Federal and non-Federal stations that communicate wholly within the United States and its insular areas may operate as specified herein. All such stations must take account of the seasonal use of frequencies by the broadcasting service published in accordance with Article 12 of the ITU *Radio Regulations* and are limited to the minimum power needed for reliable communications.

(1) *Federal stations.* Frequencies in the 13 HF bands/sub-bands listed in the table below (HF NIB Bands) may be authorized to Federal stations in the FS. In the bands 5.9–5.95, 7.3–7.4, 13.57–13.6, and 13.80–13.87 MHz (6, 7, 13.6, and 13.8 MHz bands), frequencies may also be authorized to Federal stations in the mobile except aeronautical mobile route (R) service (MS except AM(R)S). Federal use of the bands 9.775–9.9, 11.65–11.7, and 11.975–12.05 MHz is restricted to stations in the FS that were authorized as of June 12, 2003, and each grandfathered station is restricted to a total radiated power of 24 dBW. In all other HF NIB Bands (*), new Federal stations may be authorized.

(2) *Non-Federal stations.* Non-Federal use of the HF NIB Bands is restricted to stations in the FS, land mobile service (LMS), and maritime mobile service (MMS) that were licensed prior to March 25, 2007, except that, in the sub-band 7.35–7.4 MHz, use is restricted to stations that were licensed prior to March 29, 2009.

NIB OPERATIONS IN EIGHT HFBC BANDS (MHz)

HF NIB band	Federal (* new stations permitted)	Non-Federal	HFBC band
5.90–5.95	* FS and MS except AM(R)S	MMS	5.90–6.20
7.30–7.40	* FS and MS except AM(R)S	FS, LMS and MMS	7.30–7.40
9.40–9.50	* 9 MHz: FS	FS and LMS	9.40–9.90
9.775–9.90	FS (Grandfathered, restricted to 24 dBW).		
11.60–11.65	* 11 MHz: FS	FS	11.60–12.10
11.65–11.70	FS (Grandfathered, restricted to 24 dBW).		
11.975–12.05	FS (Grandfathered, restricted to 24 dBW).		
12.05–12.10	* 12 MHz: FS	FS.	
13.57–13.60	* FS and MS except AM(R)S	MMS	13.57–13.87
13.80–13.87	* FS and MS except AM(R)S	MMS.	
15.60–15.80	* 15 MHz: FS	FS	15.10–15.80
17.48–17.55	* 17 MHz: FS		17.48–17.90
18.90–19.02	* 19 MHz: FS	MMS	18.90–19.02

Note: Non-Federal stations may continue to operate in nine HF NIB Bands as follows: (i) In the 6, 7, 13.6, 13.8, and 19 MHz bands, stations in the MMS; (ii) In the 7 and 9 MHz bands, stations in the FS and LMS; and (iii) In the 11, 12, and 15 MHz band, stations in the FS.

US142 In the bands 7.2–7.3 and 7.4–7.45 MHz, the following provisions shall apply:

(a) In the U.S. Pacific insular areas located in Region 3 (*see* 47 CFR 2.105(a), note 3), the bands 7.2–7.3 and 7.4–7.45 MHz are alternatively allocated to the broadcasting service on a primary basis. Use of this allocation is restricted to international broadcast stations that transmit to geographical zones and areas of reception in Region 1 or Region 3.

(b) The use of the band 7.2–7.3 MHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3.

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US226 In the maritime mobile VHF service the frequency 156.525 MHz is to be used exclusively for digital selective calling for distress, safety and calling. The conditions for the use of this frequency are prescribed in Articles 31 and 52, and Appendix 18.

In the band 156.2475–156.7625 MHz, each administration shall give priority to the maritime mobile service on only such frequencies as are assigned to stations of the maritime mobile service by the administration (see Articles 31 and 52). Any use of frequencies in this band by stations of other services to which they are allocated should be avoided in areas where such use might cause harmful interference to the maritime mobile VHF radiocommunication service.

US228 The use of the bands 161.9625–161.9875 MHz (AIS 1 with center frequency 161.975 MHz) and 162.0125–162.0375 MHz (AIS 2 with center frequency 162.025 MHz) by the maritime mobile service is restricted to Automatic Identification Systems (AIS), except that non-Federal stations in the band 161.9625–161.9875 MHz may continue to operate on a primary basis according to the following schedule: (a) In VHF Public Coast Service Areas (VPCSAs) 1–9, site-based stations licensed prior to November 13, 2006 may continue to operate until expiration of the license term for licenses in active status as of November 13, 2006; (b) In VPCSAs 10–42, site-based stations licensed prior to March 2, 2009 may continue to operate until March 4, 2024; and (c) In VPCSAs 10–42, geographical stations licensed prior to March 2, 2009 may continue to operate until March 2, 2011. *See* 47 CFR 80.371(c)(1)(ii) for the definitions of VPCSAs and geographic license.

* * * * *

US241 The following provision shall apply to Federal operations in the band 216–220.035 MHz:

(a) Use of the fixed and land mobile services in the band 216–220 MHz and of the aeronautical mobile service in the sub-band 217–220 MHz is restricted to telemetry and associated telecommand operations. New stations in the fixed and land mobile services shall not be authorized in the sub-band 216–217 MHz.

(b) The sub-band 216.965–216.995 MHz is also allocated to the Federal radiolocation service on a primary basis and the use of this allocation is restricted to the Air Force Space Surveillance System (AFSSS) radar system. AFSSS stations transmit on the frequency 216.98 MHz and other operations may be affected within: 1) 250 km of Lake Kickapoo (Archer City), TX (33°2′48″ N, 98°45′46″ W); and 2) 150 km of Gila River (Phoenix), AZ (33°6′32″ N, 112°1′45″ W) and Jordan Lake (Wetumpka), AL (32°39′33″ N, 86°15′52″ W). AFSSS reception shall be protected from harmful interference within 50 km of: (1) Elephant Butte, NM (33°26′35″ N, 106°59′50″ W); (2) Fort Stewart, GA (31°58′36″ N, 81°30′34″ W); (3) Hawkinsville, GA (32°17′20″ N, 83°32′10″ W); (4) Red River, AR (33°19′48″ N, 93°33′1″ W); (5) San Diego, CA (32°34′42″ N, 116°58′11″ W); and (6) Silver Lake, MS (33°8′42″ N, 91°1′16″ W).

(c) The sub-band 219.965–220.035 MHz is also allocated to the Federal radiolocation service on a secondary basis and the use of this allocation is restricted to air-search radars onboard Coast Guard vessels.

US242 Use of the fixed and land mobile services in the band 220–222 MHz shall be in accordance with the following plan:

(a) Frequencies are assigned in pairs, with base station transmit frequencies taken from the sub-band 220–221 MHz and with corresponding mobile and control station transmit frequencies being 1 MHz higher and taken from the sub-band 221–222 MHz.

(b) In the non-Federal exclusive sub-bands, temporary fixed geophysical telemetry operations are also permitted on a secondary basis.

(c) The use of Channels 161–170 is restricted to public safety/mutual aid communications.

(d) The use of Channels 181–185 is restricted to emergency medical communications.

220 MHz PLAN

Use	Base transmit	Mobile transmit	Channel Nos.
Non-Federal exclusive	220.00–220.55	221.00–221.55	001–110
Federal exclusive	220.55–220.60	221.55–221.60	111–120
Non-Federal exclusive	220.60–220.80	221.60–221.80	121–160
Shared	220.80–220.85	221.80–221.85	161–170
Non-Federal exclusive	220.85–220.90	221.85–221.90	171–180

220 MHz PLAN—Continued

Use	Base transmit	Mobile transmit	Channel Nos.
Shared	220.90–220.925	221.90–221.925	181–185
Non-Federal exclusive	220.925–221	221.925–222	186–200

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US269 In the band 420–450 MHz, the following provisions shall apply to the non-Federal radiolocation service:

(a) Pulse-ranging radiolocation systems may be authorized for use along the shoreline of the conterminous United States and Alaska.

(b) In the sub-band 420–435 MHz, spread spectrum radiolocation systems may be authorized within the conterminous United States and Alaska.

(c) All stations operating in accordance with this provision shall be secondary to stations operating in accordance with the Table of Frequency Allocations.

(d) Authorizations shall be granted on a case-by-case basis; however, operations proposed to be located within the areas listed in paragraph (a) of US270 should not expect to be accommodated.

US270 In the band 420–450 MHz, the following provisions shall apply to the amateur service:

(a) The peak envelope power of an amateur station shall not exceed 50 watts in the following areas, unless expressly authorized by the FCC after mutual agreement, on a case-by-case basis, between the District Director of the applicable field office and the military area frequency coordinator at the applicable military base. For areas (5) through (7), the appropriate military coordinator is located at Peterson AFB, CO.

(1) Arizona, Florida and New Mexico.

(2) Within those portions of California and Nevada that are south of latitude 37°10′ N.

(3) Within that portion of Texas that is west of longitude 104° W.

(4) Within 322 km of Eglin AFB, FL (30°30′ N, 86°30′ W); Patrick AFB, FL (28°21′ N, 80°43′ W); and the Pacific Missile Test Center, Point Mugu, CA (34°09′ N, 119°11′ W).

(5) Within 240 km of Beale AFB, CA (39°08′ N, 121°26′ W).

(6) Within 200 km of Goodfellow AFB, TX (31°25′ N, 100°24′ W) and Warner Robins AFB, GA (32°38′ N, 83°35′ W).

(7) Within 160 km of Clear AFS, AK (64°17′ N, 149°10′ W); Concrete, ND (48°43′ N, 97°54′ W); and Otis AFB, MA (41°45′ N, 70°32′ W).

(b) In the sub-band 420–430 MHz, the amateur service is not allocated north of Line A (def. § 2.1).

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US298 The assigned frequencies 27.555, 27.615, 27.635, 27.655, 27.765, and 27.860 MHz are available for use by forest product licensees on a secondary basis to Federal operations including experimental stations. Non-Federal operations on these frequencies will not exceed 150 watts output power and are limited to the states of Washington, Oregon, Maine, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas (eastern portion).

* * * * *

US378 In the band 1710–1755 MHz, the following provisions apply:

(a) Federal fixed and tactical radio relay stations may operate indefinitely on a primary basis within 80 km of Cherry Point, NC (34°58′ N, 76°56′ W) and Yuma, AZ (32°32′ N, 113°58′ W).

(b) Federal fixed and tactical radio relay stations shall operate on a secondary basis to primary non-Federal operations at the 14 sites listed below:

State	Location	Coordinates
80 km radius of operation centered on:		
CA	China Lake	35°41′ N, 117°41′ W.
CA	Pacific Missile Test Range/Point Mugu	34°07′ N, 119°30′ W.
FL	Eglin AFB	30°29′ N, 086°31′ W.
MD	Patuxent River	38°17′ N, 076°25′ W.
NM	White Sands Missile Range	33°00′ N, 106°30′ W.
NV	Nellis AFB	36°14′ N, 115°02′ W.
UT	Hill AFB	41°07′ N, 111°58′ W.
50 km radius of operation centered on:		
AL	Fort Rucker	31°13′ N, 085°49′ W.
CA	Fort Irwin	35°16′ N, 116°41′ W.
GA	Fort Benning	32°22′ N, 084°56′ W.
GA	Fort Stewart	31°52′ N, 081°37′ W.
KY	Fort Campbell	36°41′ N, 087°28′ W.
NC	Fort Bragg	35°09′ N, 079°01′ W.
WA	Fort Lewis	47°05′ N, 122°36′ W.

(c) In the sub-band 1710–1720 MHz, precision guided munitions shall operate on a primary basis until inventory is exhausted or until December 31, 2008, whichever is earlier.

(d) All other Federal stations in the fixed and mobile services shall operate on a primary basis until reaccommodated in accordance with the Commercial Spectrum Enhancement Act.

US385 Radio astronomy observations may be made in the bands 1350–1400 MHz, 1718.8–1722.2 MHz, and 4950–4990 MHz on an unprotected basis, and in the band 2655–2690 MHz on a secondary basis, at the following radio astronomy observatories:

Allen Telescope Array, Hat Creek, CA	Rectangle between latitudes 40°00′ N and 42°00′ N and between longitudes 120°15′ W and 122°15′ W.
NASA Goldstone Deep Space Communications Complex, Goldstone, CA.	80 kilometers (50 mile) radius centered on 35°20′ N, 116°53′ W.
National Astronomy and Ionosphere Center, Arecibo, PR	Rectangle between latitudes 17°30′ N and 19°00′ N and between longitudes 65°10′ W and 68°00′ W.

National Radio Astronomy Observatory, Socorro, NM	Rectangle between latitudes 32°30′ N and 35°30′ N and between longitudes 106°00′ W and 109°00′ W.	
National Radio Astronomy Observatory, Green Bank, WV	Rectangle between latitudes 37°30′ N and 39°15′ N and between longitudes 78°30′ W and 80°30′ W.	
National Radio Astronomy Observatory, Very Long Baseline Array Stations.	80 kilometer radius centered on:	
	North latitude	West longitude
Brewster, WA	48°08′	119°41′
Fort Davis, TX	30°38′	103°57′
Hancock, NH	42°56′	71°59′
Kitt Peak, AZ	31°57′	111°37′
Los Alamos, NM	35°47′	106°15′
Mauna Kea, HI	19°48′	155°27′
North Liberty, IA	41°46′	91°34′
Owens Valley, CA	37°14′	118°17′
Pie Town, NM	34°18′	108°07′
Saint Croix, VI	17°45′	64°35′
Owens Valley Radio Observatory, Big Pine, CA	Two contiguous rectangles, one between latitudes 36°00′ N and 37°00′ N and between longitudes 117°40′ W and 118°30′ W and the second between latitudes 37°00′ N and 38°00′ N and between longitudes 118°00′ W and 118°50′ W.	

(a) In the bands 1350–1400 MHz and 4950–4990 MHz, every practicable effort will be made to avoid the assignment of frequencies to stations in the fixed and mobile services that could interfere with radio astronomy observations within the geographic areas given above. In addition, every practicable effort will be made to avoid assignment of frequencies in these bands to stations in the aeronautical mobile service which operate outside of those geographic areas, but which may cause harmful interference to the listed observatories. Should such assignments result in harmful interference to these observatories, the situation will be remedied to the extent practicable.

(b) In the band 2655–2690 MHz, for radio astronomy observations performed at the locations listed above, licensees are urged to coordinate their systems through the Electromagnetic Spectrum Management Unit, Division of Astronomical Sciences, National Science Foundation, Room 1030, 4201 Wilson Blvd., Arlington, VA 22230.

* * * * *

US444 The band 5030–5150 MHz is to be used for the operation of the international standard system (microwave landing system) for precision approach and landing. The requirements of this system shall take precedence over other uses of this band. For the use of this band, US444A and Resolution 114 (Rev.WRC–03) of the ITU *Radio Regulations* apply.

US444A The band 5091–5150 MHz is also allocated to the fixed-satellite service (Earth-to-space) on a primary basis for non-Federal use. This allocation is limited to feeder links of non-geostationary mobile-satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A of the ITU *Radio Regulations.*

In the band 5091–5150 MHz, the following conditions also apply:

—Prior to 1 January 2018, the use of the band 5091–5150 MHz by feeder links of non-geostationary-satellite systems in the mobile-satellite service shall be made in accordance with Resolution 114 (Rev.WRC–03) of the ITU *Radio Regulations;*

—Prior to 1 January 2018, the requirements of existing and planned international standard systems for the aeronautical radionavigation service which cannot be met in the 5000–5091 MHz band, shall take precedence over other uses of this band;

—After 1 January 2012, no new assignments shall be made to earth stations providing feeder links of non-geostationary mobile-satellite systems;

—After 1 January 2018, the fixed-satellite service will become secondary to the aeronautical radionavigation service.

US519 The band 18.1–18.3 GHz is also allocated to the meteorological-satellite service (space-to-Earth) on a primary basis. Its use is limited to geostationary satellites and shall be in accordance with the provisions of Article 21, Table 21–4 of the ITU *Radio Regulations.*

Non-Federal Government (NG) Footnotes

* * * * *

NG5 In the band 535–1705 kHz, AM broadcast licensees and permittees may use their AM carrier on a secondary basis to transmit signals intended for both broadcast and non-broadcast purposes. In the band 88–108 MHz, FM broadcast licensees and permittees are permitted to use subcarriers on a secondary basis to transmit signals intended for both broadcast and non-broadcast purposes. In the bands 54–72, 76–88, 174–216, 470–608, and 614–698 MHz, TV broadcast licensees and permittees are permitted to use subcarriers on a secondary basis for both broadcast and non-broadcast purposes.

* * * * *

NG7 In the bands 2000–2065, 2107–2170, and 2194–2495 kHz, fixed stations associated with the maritime mobile service may be authorized, for purposes of communication with coast stations, to use frequencies assignable to ship stations in these bands on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations. *See* 47 CFR 80.371(a) for the list of available carrier frequencies.

* * * * *

NG14 TV broadcast stations authorized to operate in the bands 54–72, 76–88, 174–216, 470–608, and 614–698 MHz may use a portion of the television vertical blanking interval for the transmission of telecommunications signals, on the condition that harmful interference will not be caused to the reception of primary services, and that such telecommunications services must accept any interference caused by primary services operating in these bands.

* * * * *

Federal Government (G) Footnotes

* * * * *

G2 In the bands 216.965–216.995 MHz, 420–450 MHz (except as provided for in G129), 890–902 MHz, 928–942 MHz, 1300–1390 MHz, 2310–2390 MHz, 2417–2450 MHz, 2700–2900 MHz, 3300–3500 MHz (except as provided for in US108), 5650–5925 MHz, and 9000–9200 MHz, use of the Federal radiolocation service is restricted to the military services.

* * * * *

G134 In the band 7190–7235 MHz, Federal earth stations operating in the meteorological-satellite service (Earth-to-space) may be authorized subject to the following conditions:

(a) Earth stations are limited to those communicating with the Department of Commerce Geostationary Operational Environmental Satellites (GOES).

(b) There shall not be more than five earth stations authorized at one time.

(c) The GOES satellite receiver shall not claim protection from existing and future stations in the fixed service (ITU Radio Regulation No. 5.43A does not apply).

■ 10. Section 2.201 is amended by revising paragraph (b) to read as follows:

§ 2.201 Emission, modulation, and transmission characteristics.

* * * * *

(b) Three symbols are used to describe the basic characteristics of emissions. Emissions are classified and symbolized according to the following characteristics:

(1) First symbol—type of modulation of the main carrier;

(2) Second symbol—nature of signal(s) modulating the main carrier;

(3) Third symbol—type of information to be transmitted.

Note to paragraph (b): Two additional symbols for the classification of emissions may be added for a more complete description of an emission. *See* Appendix 1, Sub-Section IIB of the ITU *Radio Regulations* for the specifications of these fourth and fifth symbols. Use of these symbols is not required by the Commission.

* * * * *

PART 15—RADIO FREQUENCY DEVICES

■ 11. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

■ 12. Section 15.5 is amended by revising paragraph (a) to read as follows:

§ 15.5 General conditions of operation.

(a) Persons operating intentional or unintentional radiators shall not be deemed to have any vested or recognizable right to continued use of any given frequency by virtue of prior registration or certification of equipment, or, for power line carrier systems, on the basis of prior notification of use pursuant to § 90.35(g) of this chapter.

* * * * *

■ 13. Section 15.113 is amended by revising paragraph (a) to read as follows:

§ 15.113 Power line carrier systems.

* * * * *

(a) A power utility operating a power line carrier system shall submit the details of all existing systems plus any proposed new systems or changes to existing systems to an industry-operated entity as set forth in § 90.35(g) of this chapter. No notification to the FCC is required.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

■ 14. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

■ 15. Section 25.202 is amended by revising paragraph (a)(5) to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

(a) * * *

(5) The following frequencies are available for use by the inter-satellite service:

22.55–23.00 GHz
23.00–23.55 GHz
24.45–24.65 GHz
24.65–24.75 GHz
54.25–56.90 GHz
57.00–58.20 GHz
65.00–71.00 GHz

* * * * *

PART 73—RADIO BROADCAST SERVICES

■ 16. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

■ 17. Section 73.702 is amended by revising paragraphs (f) and (h)(1) and by removing and reserving paragraph (g).

The revisions read as follows:

§ 73.702 Assignment and use of frequencies.

* * * * *

(f) *Assigned frequencies.* To the extent practicable, the frequencies assigned to international broadcast stations shall be within the following frequency bands, which are allocated to the broadcasting service on a primary and exclusive basis, except as noted in paragraph (f)(1)(ii) of this section:

(1) *In all Regions:*

(i) *Exclusive:* 5,900–6,200 kHz; 7,300–7,350 kHz; 9,400–9,900 kHz; 11,600–12,100 kHz; 13,570–13,870 kHz; 15,100–15,800 kHz; 17,480–17,900 kHz; 18,900–19,020 kHz; 21,450–21,850 kHz; and 25,670–26,100 kHz.

(ii) *Co-primary:* 7,350–7,400 kHz, except in the countries listed in 47 CFR 2.106, footnote 5.143C, where this band is also allocated to the fixed service on a primary basis.

(2) *In Region 1 and Region 3:* 7,200–7,300 kHz and 7,400–7,450 kHz.

Note to paragraph (f): For the allocation of frequencies, the ITU has divided the world into three Regions, which are defined in 47 CFR 2.104(b). The bands 7,200–7,300 kHz and 7,400–7,450 kHz are not allocated to the broadcasting service in Region 2. Subject to not causing harmful interference to the broadcasting service, fixed and mobile services may operate in certain of the international broadcasting bands; see 47 CFR 2.106, footnotes 5.136, 5.143, 5.143A, 5.143B, 5.143D, 5.146, 5.147, and 5.151.

* * * * *

(h) *Requirements for Regional operation.* (1) Frequency assignments in the bands 7,200–7,300 kHz and 7,400–7,450 kHz shall be restricted to international broadcast stations in the Pacific insular areas that are located in Region 3 (as defined in 47 CFR 2.105(a), note 3) that transmit to geographical zones and areas of reception in Region 1 or Region 3.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 18. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

■ 19. Section 90.35 is amended by revising the first sentence in paragraph (g) to read as follows:

§ 90.35 Industrial/Business Pool.

* * * * *

(g) The frequencies 9–490 kHz are used to operate electric utility Power Line Carrier (PLC) systems on power transmission lines for communications essential to the reliability and security of electric service to the public, in accordance with part 15 of this chapter.* * *

* * * * *

[FR Doc. 2010–23858 Filed 10–12–10; 8:45 am]

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Federal Register

Wednesday,
October 13, 2010

Part III

The President

Proclamation 8581—Leif Erikson Day, 2010

Proclamation 8582—General Pulaski Memorial Day, 2010

Federal Register
Vol. 75, No. 197
Wednesday, October 13, 2010

Presidential Documents

Title 3—

The President

Proclamation 8581 of October 8, 2010

Leif Erikson Day, 2010

By the President of the United States of America

A Proclamation

Over 1,000 years ago, the lure of discovery led Leif Erikson—a son of Iceland and grandson of Norway—and his crew on an ambitious exploration of present-day Greenland and Canada. Centuries later, after a months-long ocean voyage, a group of Norwegians landed in New York City on October 9, 1825, the first large group of immigrants to arrive in the United States from Norway. To commemorate that event and pay tribute to our rich Nordic-American heritage, we celebrate Leif Erikson Day in honor of the first European known to set foot on North American soil more than a millennium ago.

Countless immigrants who crossed the Atlantic on voyages to the New World looked to Leif Erikson as a symbol of fortitude and a hero who did not turn back in the face of danger and uncertainty. Leif Erikson's bold courage echoes in the daring and intrepid spirit of the pioneers who built and shaped our young country, and in the determination, self-reliance, and innovation of the Nordic settlers who made enduring contributions to the American character. Today, Nordic Americans immeasurably enrich our national life as neighbors and leaders in communities across America.

Guided by the strength and resolve of Leif Erikson and the countless Nordic immigrants who came in his wake, let us steadfastly reach for the promise of tomorrow. It is their spirit of exploration and progress that helped forge our great country, and that will continue to guide us as we strive for a better and brighter future.

To honor Leif Erikson and celebrate our Nordic-American heritage, the Congress, by joint resolution (Public Law 88–566) approved on September 2, 1964, has authorized the President to proclaim October 9 of each year as "Leif Erikson Day."

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim October 9, 2010, as Leif Erikson Day. I call upon all Americans to observe this day with appropriate ceremonies, activities, and programs to honor our rich Nordic-American heritage.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord two thousand ten, and of the Independence of the United States of America the two hundred and thirty-fifth.

[FR Doc. 2010–25967
Filed 10–12–10; 11:15 am]
Billing code 3195–W1–P

Presidential Documents

Proclamation 8582 of October 8, 2010

General Pulaski Memorial Day, 2010

By the President of the United States of America

A Proclamation

From before our Nation's founding until today, daring individuals have fought to defend America with unwavering devotion. Casimir Pulaski was a Polish patriot, yet he laid down his life in defense of American independence during the Revolutionary War. Each year, on October 11, Americans pause to remember this champion of liberty who fought valiantly for the freedom of Poland and the United States, and we proudly reflect upon our rich Polish-American heritage.

As a young man, Brigadier General Casimir Pulaski witnessed the occupation of Poland by foreign troops and fought for his homeland's freedom, determined to resist subjugation. During his subsequent exile to France, he learned of our nascent struggle for independence, and volunteered his service to our cause. Pulaski arrived in America in 1777 and served in the American Cavalry under the command of General George Washington. Valued for his vast military experience, General Pulaski led colonists on horseback with admirable skill, earning a reputation as the "father of American Cavalry." Pulaski was mortally wounded during the siege of Savannah, and he died from his wounds on October 11, 1779.

General Pulaski's legacy survives in a long line of proud Polish Americans, who have arrived on our shores seeking freedom and opportunity and have served in our Armed Forces to defend our Nation. Polish Americans have carried with them values and traditions that have shaped our society, and their immeasurable contributions have strengthened our country. This proud community has been integral to our success as a Nation, and will play a prominent leadership role in the years ahead.

General Pulaski wrote to our first President, "I came here, where freedom is being defended, to serve it, and to live or die for it." We have never forgotten his sacrifice for our independence or his patriotism in defending freedom across two continents. Today, the people of the United States and Poland are bound by our solemn obligations to each other's security and our shared values, including a deep and abiding commitment to liberty, democracy, and human rights. On General Pulaski Memorial Day, we celebrate the early beginnings of our strong friendship, our lasting ties to the people of Poland, and our enduring commitment to a safer, freer, and more prosperous world.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim Monday, October 11, 2010, as General Pulaski Memorial Day. I encourage all Americans to commemorate this occasion with appropriate programs and activities paying tribute to Casimir Pulaski and honoring all those who defend the freedom of our great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord two thousand ten, and of the Independence of the United States of America the two hundred and thirty-fifth.

[FR Doc. 2010–25968
Filed 10–12–10; 11:15 am]
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Federal Register

Vol. 75, No. 197

Wednesday, October 13, 2010

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Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
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Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

60567–61034 1
61034–61320 4
61321–61588 5
61589–61974 6
61975–62294 7
62295–62448 8
62449–62674 12
62675–63038 13

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8571 62295
8572 62297
8573 62299
8574 62301
8575 62303
8576 62305
8577 62307
8578 62449
8579 62451
8580 62453
8581 63035
8582 63037

Executive Orders:
13553 60567
13554 62313

Administrative Orders:
Memorandums:
Memorandum of September 29, 2010 61033
Memorandum of October 4, 2010 62309

5 CFR

870 60573
1201 61321

Proposed Rules:
831 60643
841 60643
842 60643
930 61998

7 CFR

319 62455
1219 61589

Proposed Rules:
6 62692
205 62693
319 62484
1217 .....61002, 61025

9 CFR

77 60586

10 CFR

50 61321

Proposed Rules:
30 62330
32 62330
33 62330
34 62330
35 62330
36 62330
37 .....62330, 62694
39 62330
51 62330
71 62330
73 .....62330, 62695
429 61361

12 CFR

25 61035
228 61035
345 61035
563e 61035

Proposed Rules:
704 60651
Ch. XIII 61653

13 CFR

121 .....61591, 61597, 61604, 62258
123 60588
124 62258
125 62258
126 62258
127 62258
134 62258

14 CFR

39 .....60602, 60604, 60608, 60611, 60614, 61046, 61337, 61341, 61343, 61345, 61348, 61352, 61975, 61977, 61980, 61982, 61985, 61987, 61989, 62319
71 .....61609, 61610, 61611, 61993, 62457, 62458, 62459, 62460, 62461
91 61612

Proposed Rules:
1 62640
39 .....60655, 60659, 60661, 60665, 60667, 60669, 61114, 61361, 61363, 61655, 61657, 61999, 62002, 62005, 62331, 62333, 62716
71 61660
91 62640
117 62486
120 62640
121 62486
135 62640
139 62008

15 CFR

748 62462
772 62675
774 62675
902 60868

17 CFR

200 62466
241 60616
243 61050

Proposed Rules:
229 62718
240 62718
249 62718

18 CFR

806 60617

808 60617
Proposed Rules:
35 62023
260 61365

19 CFR

Proposed Rules:
210 60671

20 CFR

404 62676
416 62676
Proposed Rules:
404 62487
405 62487
416 62487
655 61578

21 CFR

522 62468
1306 61613

22 CFR

Proposed Rules:
62 60674

24 CFR

Proposed Rules:
203 62335

28 CFR

Proposed Rules:
2 62342

30 CFR

201 61051
202 61051
203 61051
204 61051
206 61051
207 61051
208 61051
210 61051
212 61051
217 61051
218 61051
219 61051
220 61051
227 61051
228 61051
229 61051
241 61051
243 61051
290 61051
1201 61051
1202 61051
1203 61051
1204 61051
1206 61051
1207 61051
1208 61051
1210 61051
1212 61051
1217 61051
1218 61051
1219 61051
1220 61051
1227 61051
1228 61051
1229 61051
1241 61051
1243 61051
1290 61051
Proposed Rules:
56 62024
57 62024
926 61366

31 CFR

1 61994
Proposed Rules:
1 62737

32 CFR

323 61617
701 61618

33 CFR

117 ....61094, 62468, 62469
165 ....61096, 61099, 61354, 61619, 62320

37 CFR

Proposed Rules:
201 ....61116, 62345, 62488

38 CFR

3 ....61356, 61995
17 61621
Proposed Rules:
17 62348

40 CFR

52 ....60623, 62323, 62470
156 62323
261 ....60632, 61356
Proposed Rules:
26 62738
52 ....61367, 61369, 62024, 62026, 62354
63 61662
81 ....60680, 62026
85 62739
86 62739
122 62358
261 ....60689, 62040
600 62739

42 CFR

412 60640
413 60640
415 60640
424 60640
440 60640
441 60640
482 60640
485 60640
489 60640

43 CFR

3100 61624

44 CFR

67 61358
Proposed Rules:
67 ....61371, 61373, 61377, 62048, 62057, 62061, 62750, 62751

45 CFR

162 62684
170 62686

46 CFR

389 62472

47 CFR

1 62924
2 62924
15 ....62476, 62924
25 62924
73 ....62690, 62924
79 61101
90 62924

48 CFR

Proposed Rules:
25 62069
216 60690
252 60690

49 CFR

395 61626
593 62482
Proposed Rules:
227 61386
531 62739
533 62739

50 CFR

17 62192
18 61631
600 62326
635 62690
660 ....60868, 61102
679 ....61638, 61639, 61642, 62482
Proposed Rules:
17 ....61664, 62070
21 60691
217 60694
223 61872
224 ....61872, 61904
226 61690
622 62488
660 60709

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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S. 3304/P.L. 111–260
Twenty-First Century Communications and Video Accessibility Act of 2010 (Oct. 8, 2010; 124 Stat. 2751)
Last List October 12, 2010

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